

ERIE COUNTY WATER AUTHORITY
 AUTHORIZATION FORM
 For Approval/Execution of Documents
 (check which apply)

Contract: Cellular Tower **Project No.:** PN200200183
Project Description: T-Mobile is requesting minor modifications to the existing equipment
Within the leased area: 450 Wehrle Drive, Amherst NY 14225.

Item Description:

Agreement Professional Service Contract Amendment Change Order
 BCD NYSDOT Agreement Contract Documents Addendum
 Recommendation for Award of Contract Recommendation to Reject Bids
 Request for Proposals
 Other Requesting approval to move forward with modifications

Action Requested:

Board Authorization to Execute Legal Approval
 Board Authorization to Award Execution by the Chairman
 Board Authorization to Advertise for Bids Execution by the Secretary to the Authority
 Board Authorization to Solicit Request for Proposals
 Other Requesting the board approve T-Mobile equipment modifications @ 450 Wehrle Dr.

Approvals Needed:

APPROVED AS TO CONTENT:

Department Head Savonius Foster Date: 5/16/19
 Risk Manager [Signature] Date: 05/16/2019
 Director of Administration Savonius Foster Date: 5/16/19
 Executive Engineer Russell Stoll Date: 5/16/19

APPROVED AS TO FORM:

Legal Margaret A. Murphy Date: 5/17/19

APPROVED FOR BOARD RESOLUTION:

Secretary to the Authority [Signature] Date: 5/20/19

Remarks: After review, Scott Aiple has confirmed this is only a minor modification to the Equipment. Requesting board approval to move forward with equipment modifications.

Resolution Date: _____ **Item No:** _____



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

May 3, 2019

To: Terrence D. McCracken, Secretary to the Authority

From: Lavonya C. Lester, Director of Administration

Subject: T-Mobile USA request to modify existing equipment @ 450 Wherle Drive

T-Mobile currently has equipment on our property and is in need of modifying the equipment. After review by Scott Aiple, Electrical Engineer for the Erie County Water Authority, it is determined that this modification will not change the location of the existing equipment and is acceptable from an operations and structural standpoint.

The modifications that are to be completed are as follows:

Replace (3) panel antennas, (3) RRU's, Add (3) hybrid cables.

The original requested date of 5/6/2019 to begin work on this equipment modification will be updated once the board approves T-Mobile's request to make the necessary modifications.

LCL:

Attachment

cc:



T-Mobile USA
103 Monarch Drive
Liverpool, NY 13088
Attention: Hans Fielder

May 20, 2019

Erie County Water Authority
Attn: Director of Administration, Ms. Lavonya Lester
3030 Union Road
Cheektowaga, NY 14227

Re: Consent for Replacing (3) antennas & (3) RRU's, Add (3) hybrid cables
Site#: 3ERB101A ("the Site")
Site Address: 450 Wehrle Drive, Amherst, NY ("the Property")

Dear Landlord,

Re: Lease with Option, dated July 16th, 1997 (the "Lease") between Erie County Water Authority ("Landlord") and T-Mobile Northeast LLC, as successor in interest to Omnipoint Holdings, Inc. ("Tenant") for a site located at 450 Wehrle Drive, Amherst, NY 14225 (the "Property"), to install telecommunication equipment as defined therein on the Property.

This letter is to notify you that T-Mobile Northeast LLC will be performing minor modifications to its antenna facility located on the premises, according to the terms of the lease. The proposed modifications will take place within the existing lease area and are as follows:

- Antenna Modifications: Replace (3) panel antennas, (3) RRU's, Add (3) hybrid cables

Please anticipate our Modification Department contacting you or your representative in the coming weeks to schedule access.

If you accept the terms of this Acknowledgment and Consent Letter set forth above, please sign and date the acknowledgment below on the two (2) original copies enclosed and return one (1) original copy in the enclosed self addressed, stamped envelope. Should you have any questions, please contact John R. Lynch at jrlynch@transcendwireless.com or (315) 706-7014.

We thank you in advance for your continued cooperation in this matter.

Sincerely,

Hans Fielder

Hans Fielder
Market Manager
T-Mobile Northeast LLC

Acknowledged, Accepted and Agreed:

Landlord: Erie County Water Authority

X _____
BY: _____

Date: _____

LEASE

THIS AGREEMENT, made as of this 15th day of NOVEMBER, 2001, by and between **ERIE COUNTY WATER AUTHORITY**, with an address of 350 Ellicott Square Building, 295 Main Street, Buffalo, New York 14203, known as ("Landlord"), and **OMNIPOINT HOLDINGS, INC.**, with an address of 12920 S.E. 38th Street, Bellevue, WA 98006, known as ("Tenant").

SECTION 1 PREMISES

1.1 Landlord hereby leases to Tenant and Tenant hereby takes from Landlord, for the term and upon the terms, covenants and conditions set forth in this Lease and pursuant to Exhibit "E" (Consent of Owner), the premises (the "Premises") drawn in Exhibit "A" which is located on a water tank (known as the "Wehrle Tower") located on a parcel of land with a street address of 496 Wehrle Drive, Amherst, New York, Tax Map No. 080.15, and on a legal description annexed as Exhibit "B" (the "Property") together with (a) a non-exclusive easement onto the Premises for 24 hour per day access for installation and maintenance of equipment deemed necessary by Tenant for all utility service to the Premises and Tenant's installations, upon reasonable notice to the Landlord; and (b) the right of ingress and egress onto the Property to enter the Premises under the supervision of the Landlord. Tenant does not obtain the right to obtain a key to the Property and/or Premises. All entry onto the Premises or Property will require prior reasonable notice to the Landlord.

1.2 Tenant may at its expense install any improvements in or on the Premises as it deems necessary or desirable for the operation of a voice and data communication transmitter subject to the prior written approval of the Landlord of all such improvements, which approval may not be unreasonably withheld.

1.3 Anything in Section 1.2 of the Lease to the contrary notwithstanding, it is agreed that Tenant may install in or on the Premises, at no cost to Landlord, the equipment, building, shelter and/or cabinet housing electrical and other telecommunications equipment for the provision of cellular telephone and any other telecommunications services, together with such other ancillary and supporting structures as Tenant deems necessary or desirable for the operation of cellular telephone and other telecommunications purposes ("Tenant's Installations"), all as described in the site plan, Exhibit "C", attached hereto, which equipment shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld or delayed.

1.4 The procurement of all necessary licenses and permits for the erection, construction, maintenance and operation of Tenant's installations and any other certificates or permits which may be required are the obligation of Tenant and all fees and expenses in connection therewith shall be paid by Tenant, provided that Landlord shall cooperate with Tenant in procuring them. In the construction of all improvements upon the Premises, Tenant will comply with all laws, ordinances and regulations of all governments and bureaus concerned with said construction.

SECTION 2

TERM

2.1 The initial term("Initial Term") of this Lease shall be five (5) years from the date hereof. It will be automatically renewed three (3) additional five (5) year terms ("Renewal Terms") unless Tenant gives Landlord 30 days notice of its intention to terminate this Lease at the end of the Initial Term or any Renewal Term.

SECTION 3

RENT, TAXES

3.1 Tenant covenants and agrees to pay to Landlord annual rental for the Premises in the sum of \$27,600.00 payable in equal monthly installments in advance in the amount of \$2,300.00 on the fifth (5th) day of each month during the term of this Lease. Tenant agrees to pay a late charge of 1.5 percent per month on any unpaid sums after the due date.

3.2 The Rent for each new five-year Renewal Term shall be equal to the Rent payable in the last year of the preceding Term or Renewal Term, increased by twenty-five (25%) percent.

3.3 Landlord will pay when due all real property taxes attributable to the Property. Tenant will be responsible for payment of any personal and/or real property taxes assessed directly upon the installation and use of Tenant's installations on the Premises. Tenant will pay to Landlord, as additional rent, any increase in personal and/or real property taxes levied against the Property which are directly attributable to Tenant's use of the Premises, upon delivery of reasonable proof of such increase to Tenant by Landlord. Tenant and/or Landlord shall have the right to challenge any taxes levied on the Property or the Premises due to Tenant's installations and the parties shall fully cooperate with each other in such challenge.

SECTION 4

CO-LOCATION

4.1 Tenant will solve interference problems with other telecommunication systems existing at the Property as of this date.

4.2 Where there are prior radio frequency user(s) on the Landlord's property, the Landlord will provide Tenant with a list of all prior radio frequency user(s) (and their frequencies) on the property to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with prior radio frequency user(s) on the Premises as long as the prior radio frequency user(s) operate and continue to operate within their frequencies and in accordance with all applicable laws and regulations.

4.3 Landlord may enter into lease agreements with additional tenants (hereinafter referred to as "Subsequent Tenants") for the execution, construction, maintenance and operation of installations and other telecommunication systems. Landlord will not grant, after the date of this Lease, a lease license or any other right to any third party for the use of the Property, if such use may in any way adversely affect or interfere with Tenant's Communication Facility. Landlord will notify Tenant and receive Tenant's written approval prior to granting any third party the right to install and operate communications equipment on the Property. Nothing contained herein will restrict Tenant nor its successors and assigns from installing and modifying its/their communications equipment.

4.4 Tenant shall comply with all reasonable requests of the Landlord to allow the Tenant and any Subsequent Tenants to utilize the Landlord's Property and to ensure that Tenant and Subsequent Tenant(s) will not interfere, hinder or otherwise prohibit the ability of the Tenant and Subsequent Tenant(s) to operate their installations on the Property.

4.5 Tenant agrees to act in good faith in order to ensure all issues raised by the Landlord and Tenant with respect to the co-location of the Tenant and any Subsequent Tenant(s) on the Property will be resolved in a manner which will ensure the Landlord's right to lease the Property to any Subsequent Tenant(s).

4.6 Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property or any of the Landlord's other properties in any way which interferes with the operations of Tenant or the rights of Tenant under this Lease. Landlord will cause such interference to cease upon not more than twenty-four (24) hours notice from Tenant. In the event any such interference does not cease within the aforementioned cure period, then the parties acknowledge that Tenant will suffer irreparable injury, and therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity, for Landlord's breach of this Lease, to elect to enjoin such interference or to terminate the Lease upon notice to Landlord.

4.7 In the event of a signal interruption or interference between The Landlord, Tenant and Subsequent Tenant(s), the Subsequent Tenant(s) will attempt to resolve the signal interruption or interference. If the Landlord, Tenant and Subsequent Tenant(s) are unable to resolve the signal interruption or interference, the Subsequent Tenant will retain a disinterested communication consultant, at its own expense, who is mutually agreeable to the Landlord, Tenant and Subsequent Tenant(s) to assess the position of the Landlord, Tenant and Subsequent Tenant(s) as to the signal interruption or interference. The Subsequent Tenant(s) agrees to be bound by and to subsequently comply with the decision of the agreed upon communication consultant.

SECTION 5 **SUBLEASE**

5.1 Tenant shall not sublease space or assign its rights under the Lease for the premises without the prior written consent of the Landlord.

5.2 Anything in Section 5.1 of the Lease to the contrary notwithstanding, it is agreed that Tenant shall have the right, without Landlord's consent to assign its rights under the Lease to entities with a partnership interest in Tenant, to subsidiaries or affiliates of entities with a partnership interest in Tenant, to an entity which succeeds to all or substantially all of the assets or business of Tenant, or to the successor(s) to Tenant's certificates and licenses issued by the Federal Communications Commission and the New York State Public Service Commission.

SECTION 6 **INSURANCE**

6.1 Tenant shall carry, at its own expense, comprehensive general liability insurance in an amount no less than \$5,000,000 combined single limit covering personal injury and property damage for the benefit of both Landlord and Tenant. Tenant shall name Landlord as an additional insured on such policies. (See Exhibit "D" for insurance forms and information required by Landlord.)

6.2 Tenant shall maintain at its expense policies insuring against loss or damage to Tenant's installations by reason of fire or other casualty.

6.3 All insurance required of Tenant by this Lease may be provided under Tenant's blanket policies from time to time in effect.

6.4 Tenant shall provide Landlord on the first day of each anniversary year of the Lease the certificate of insurance identified in subdivision 6.1 of this lease. Such policy will require the insurance company to give landlord at least thirty (30) days written notice before canceling the coverage for any reason.

SECTION 7 **REPAIRS, ALTERATIONS AND TITLE TO IMPROVEMENTS**

7.1 Tenant may make any alterations, additions, deletions, removals and/or improvements to Tenant's installations necessary to conduct its business thereon subject to the prior written approval of the Landlord of all such alterations, additions and improvements. Tenant shall take good care of the Premises and shall make all necessary repairs to Tenant's installations. Approval of the Landlord is not to be unreasonably withheld or delayed.

7.2 Tenant's Installations will remain, at all times, Tenant's property, whether or not Tenant's Installation would be deemed fixtures under local law, and upon termination of this Lease Tenant shall remove same pursuant to Section 16. Tenant shall maintain its installations in first class condition.

7.3 Tenant may, upon notice to Landlord, mortgage or grant a security interest in this Lease and the Antenna Facilities, and may assign this Lease and the Antenna Facilities to any Mortgagees or holders of security interests, including their successors or assigns (collectively "Mortgagees") provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by mortgagees. Landlord agrees to notify Tenant and Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagees located on the premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after receipt of the default notice, as provided in Section 11 of this Lease. All such notices to mortgagees shall be sent to Mortgagees at the address specified by Tenant. Failure by Landlord to give Mortgagees such notice shall not diminish Landlord's rights against Tenant, but shall preserve all rights of Mortgagees to cure any default and to remove any property of Tenant or Mortgagees located on the Premises as provided in Section 17 of this Lease.

SECTION 8 **MECHANIC'S LIENS**

8.1 Tenant shall indemnify and save Landlord harmless from and against all loss, liability, costs, attorneys' fees, damages or interest charges as a result of any mechanic's lien or any other lien filed against the Premises as a result of any act or omission or as a result of any repairs, improvements, alterations or additions made by Tenant, its agents or employees.

SECTION 9 **INDEMNIFICATION**

9.1 Tenant and Landlord shall each indemnify and hold the other harmless from and against any and all claims for damages to persons and property arising out of or resulting from the negligence of the other party, its agents, invites, and employees.

SECTION 10 **COMPLIANCE WITH LAWS**

10.1 Tenant shall comply with all valid requirements of any duly constituted public authority, or with the requirements of any Federal, State, County or local law or ordinance applicable to the use and occupancy of the Premises and any repairs or work performed on the Premises by Tenant, and Tenant agrees to indemnify the Landlord and save Landlord harmless from and against any penalty, damage or charge imposed for any violation by Tenant and its successors, assigns, agents and employees.

10.2 Landlord may join in or consent to any and all reasonable applications and petitions to any governmental or other public agency that Tenant may, from time to time, make in connection with the Premises, provided only that Tenant shall pay all costs incurred in connection therewith.

SECTION 11 **DEFAULT**

11.1 If any one or more of the following events (herein sometimes called "Events of Default") shall happen:

- (a) If default shall be made in the payment of any rent payable under this Lease and such default shall continue for a period of 20 days after written notice from Landlord to Tenant specifying the items in default; or
- (b) If default shall be made by Tenant in the performance or compliance with any of the agreements, terms, covenants or conditions in this Lease other than those referred to in Section 11.1(a) for a period of 30 days after written notice from Landlord to Tenant specifying the items in default, or if, in the case of a default of a covenant which cannot with due diligence be cured within said 30 day period, Tenant fails to commence within said 30 day period to cure such default and to diligently and complete such cure within a reasonable period of time; or
- (c) If Tenant shall file a voluntary petition in bankruptcy or shall be adjudicated bankrupt or insolvent.

Then and in any such event, Landlord at any time thereafter may give written notice to Tenant specifying such event of default or events of default and stating that this Lease shall expire and terminate 10 days after the giving of such notice. Upon the date specified in such notice this Lease shall expire and terminate; provided, however, Tenant shall remain liable for all sums due hereunder to Landlord until the Premises are relet to any third party at the same term with rent and taxes pursuant to Sections 2 and 3 at which time Tenant's liability hereunder shall cease; provided that Tenant shall remain liable for all sums due and accruing prior to the date of such reletting and shall also remain liable for any difference in rent and taxes over the terms pursuant to Sections 2 and 3 of this Lease.

SECTION 12 **UTILITIES**

12.1 Tenant will promptly pay all charges for electricity or any other utilities used by Tenant on the Premises. Tenant may have meters or submeters installed at the Premises for Tenant's utility use, and the cost of such meters and their repair will be paid for by Tenant. Tenant may install or improve existing utility service(s) to its installation and may install an electrical grounding system.

SECTION 13
CONDEMNATION/CASUALTY

13.1 If any governmental, public body or other condemning authority takes, or if Landlord transfers in lieu of such taking, all or part of the Property or if the Property is damaged by any casualty, thereby making it physically or financially unfeasible for the Premises to be used in the manner intended by the Lease, either party shall have the right to terminate this lease effective as of the date of the taking by the condemning party or such casualty loss and the rental shall be prorated appropriately. If only a portion of the Property is taken, then the Lease shall continue but rental payments provided under this Lease shall abate proportionately to the portion of the Premises taken and Landlord shall make all necessary repairs and alterations to restore the portion of the Property and Premises remaining to as near their former condition as circumstances will permit (at a cost not to exceed Landlord's proceeds from said condemnation, transfer or casualty loss).

SECTION 14
SUBORDINATION

14.1 Tenant agrees that this Lease shall be subject and subordinate to any mortgages now or hereafter placed upon the Property and to all modifications thereto, provided that Tenant's possession of and access to the Premises shall not be disturbed so long as Tenant continues to perform its duties and obligations under this Lease, and Tenant's obligation to perform such duties and obligations shall not be in any way increased or its rights diminished by the provisions of this paragraph. Under any and all, circumstances, Tenant's possession of the Premises shall not be disturbed so long as Tenant shall continue to perform its duties and obligations under this Lease. Landlord agrees to cooperate in securing written non-disturbance agreements from all existing or future mortgagees as requested by Tenant.

SECTION 15
NON-ADVERTISING

15.1 Tenant agrees it will not advertise in any manner on the Premises and Landlord agrees it will not enter into any leasing agreements for the Premises which provide any subsequent tenants with a right to advertise on the Premises.

SECTION 16
TERMINATION

16.1 In the event of termination of this Lease for any reason, Tenant shall remove Tenant's Installations within ninety (90) days of the date of termination.

16.2 Upon removal of its equipment, Tenant shall place the Premises in the condition it was prior to the effective date of this Lease, ordinary wear and tear excepted.

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SECTION 17
SURRENDER OF PREMISES

17.1 Tenant shall on the last day of the Term or Renewal Term hereof, or upon any earlier termination of this Lease, or upon re-entry by Landlord upon the Premises, surrender and deliver up the Premises into the possession and use of Landlord free and clear of all liens and encumbrances other than those, if any, created by Landlord.

SECTION 18
INVALIDITY OF PARTICULAR PROVISIONS

SECTION 20
QUIET ENJOYMENT

20.1 Tenant, upon paying the rent herein provided and observing and keeping all covenants and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the Term of this Lease (and any Renewal Terms) without hindrance or molestation by anyone claiming by or through Landlord.

SECTION 21
PAINTING PROVISION

21.1 The Wehrle Tower Water Tank is scheduled to be repainted during the term(s) of this Lease. In such event, the Landlord agrees to give Tenant at least Two (2) months notice of its intention to paint the Water Tank. Also, the Landlord who is responsible for entering into a contract to have such work performed will obtain two (2) alternative bids from each contractor for the cost of the painting work to be performed, one (1) bid will be for painting the Water Tank with Tenant's equipment in place, and, one (1) bid will be for painting the Water Tank with Tenant's equipment temporarily removed. Tenant shall, thereupon, be presented with copies of both bids from the successful bidder and the indicated difference in price. Tenant shall then have the option to and shall have fourteen (14) days in which to advise Landlord, in writing, of its election to either 1) temporarily remove its equipment from the Water Tank while painting is being done (leaving its equipment shelter in place and setting up temporary facilities on Landlord's property as hereinafter provided); or 2) pay Landlord a dollar amount equivalent to the difference between the bid price for painting with the equipment on the Water Tank and the bid price with the equipment removed as represented by the bids received from the contractor to whom the contract is actually awarded for painting.

If Tenant elects to temporarily remove and/or relocate its equipment during the course of painting, it shall have same removed from the Water Tank at least ten (10) days prior to the start date specified in the painting contract or sixty (60) days after making its election, whichever is later. In the event that Tenant shall fail to remove and/or relocate its equipment in a timely fashion, then Tenant shall become responsible for any additional painting cost incurred as a result thereof.

If Tenant chooses to keep its equipment in operation upon the Water Tank during painting, Tenant agrees, nevertheless, to power down specific antennae as the painting contractors' schedule may require from time to time, to bring RF exposures within OSHA limits upon any portion of the Water Tank upon which, or in the vicinity of which, personnel may be working. Tenant acknowledges that painting operations may require draping tarps over the Water Tank to a circumference somewhat greater than the drip line of the Water Tank. Landlord, or the entity responsible for contracting for painting and the painting contractor, shall endeavor, at all times to minimize the down time for Tenant's equipment by appropriate scheduling and shall generally, attempt to minimize the total overall time frame necessary to complete all work entailed in painting the Water Tank.

Included in the alternate bid to paint the Water Tank with Tenant's equipment in place, shall be a requirement for the painting contractor to mask, shield or otherwise protect Tenant's equipment on the Water Tank and on the Property from sand blast, primer or paint overspray, or other damage during the course of the work.

Once the painting work under the contract has been fully accepted, approved for payment, and paid by the Erie County Water Authority, the said Erie County Water Authority shall invoice Tenant for its agreed portion of the painting costs, with proof of such payment, and Tenant shall pay such invoice within thirty (30) days. Failure to do so within thirty (30) days shall constitute a default under the terms of this Lease.

In the event that Tenant chooses to temporarily remove its equipment to facilitate painting, or in the event that it shall become necessary for Landlord or its sub-tenants, lessees or assignees to perform any other maintenance or repair work upon the Water Tank or its appurtenances which might interfere with the continuous operations of Tenant as herein provided for, then Tenant shall have the right to place temporary cellular transmission/reception facilities on Landlord's property and shall have temporary easements granted to Tenant by Landlord for such purposes to insure its ability to continue its operations without any interruption whatsoever throughout the course of work required for such maintenance or repairs. Landlord shall give Tenant at least sixty (60) days written notice of its intention to do any work on the Water Tank which might interfere with Tenant's operation, and shall cooperate with Tenant to enable Tenant to protect Tenant's equipment on the Water Tank and the Property.

SECTION 22

MISCELLANEOUS PROVISIONS

22.1 Landlord represents, warrants and agrees that (i) the Property and its uses and operations complies, and will comply, with all local, state and federal statutes or regulations, or ordinances pertaining to the environment or natural resources ("Environmental Laws"); (ii) the Property has not been used or allowed to be used by Landlord or to the best of Landlord's knowledge by any previous owner to emit through ground, water or air, refine, manufacture, generate, produce, store, contain, handle, transfer, process, treat, transport, or dispose of hazardous substances or hazardous waste products or pollutants, including without limitation asbestos, oil, petroleum products and their by-products, (collectively called "Hazardous Substance") as defined and regulated under any Environmental Laws; (iii) the Property has never been the subject of any federal or state Hazardous Substance related list; (iv) the Property has never required closure or clean-up of Hazardous Substance; and (v) no asbestos, Polychlorinated Biphenyls or other Hazardous Substance or underground or above ground storage tanks exist or have existed or will exist on the Property. Landlord warrants and represents that it will be solely liable for the clean-up and removal of any and all Hazardous Substances and any related activities, including, but not limited to the restoration of the Property related to Hazardous Substance now and in the future existing on the Property except to the extent generated by Tenant. Landlord will defend, indemnify and hold Tenant harmless from and against any and all direct liabilities, damages, losses, costs, assessments, penalties, fines, expenses and fees, including reasonable legal fees, consultant fees and expert witness fees, related to Landlord's breach of any of the above representations and warranties.

Tenant represents, warrants and agrees to conduct its activities on the Premises in compliance with all applicable Environmental Laws. Tenant will not use, generate, release, manufacture, refine, produce, store, or dispose of any Hazardous Substances on, under or about the Premises except for the use of sealed batteries for emergency back-up, any fire suppression system and small quantities of cleaning products ordinarily used by commercial businesses. Tenant agrees to defend, indemnify and hold Landlord harmless from and against any and all direct liabilities, damages, losses, costs, assessments, penalties, fines, expenses and fees, including reasonable legal fees, that Landlord may suffer due to the existence or discovery of Hazardous Substances on the Property, or released into the environment that are directly caused by Tenant's use of Premises.

The indemnifications of this Paragraph specifically include reasonable costs, expenses and fees incurred in connection with any investigation of property conditions or any clean-up, remedial, removal or restoration work required by any governmental authority. The provisions of this Paragraph will survive the expiration or termination of this Lease.

22.2 The captions of this Lease are for convenience and reference and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

22.3 This Lease shall be construed and enforced in accordance with the laws of the State of New York.

22.4 Upon the execution and delivery hereof, this Lease shall constitute the entire agreement between Landlord and Tenant for the Premises. This Lease cannot be changed orally, but only by an agreement in writing and signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

22.5 The covenants and agreements herein contained shall bind and inure to the benefit of Landlord and Tenant, their respective successors and assigns, except as otherwise provided herein.

22.6 Tenant agrees at any time and from time to time, upon not less than 20 days prior notice by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and the commencement date.

22.7 Landlord agrees at any time and from time to time, upon not less than 20 days prior notice by Tenant, to execute, acknowledge and deliver to Tenant a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there shall have been modifications, that the same is in full force and effect as modified and stating the modifications), and the commencement date.

22.8 The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys fees and court costs, including appeals, if any.


22.9 The parties further agree that in the event that any provision of this agreement, or the application of such provision to any party, person, entity, or set of circumstances, shall be determined to be invalid, unlawful or unenforceable to any extent, the remainder of this agreement, and the application of such provision to the parties, persons, entities or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected and shall continue to be enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Parties have executed this Lease the date first above written.

Landlord:

ERIE COUNTY WATER AUTHORITY

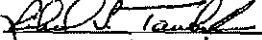
Dated: 11-15-01

BY: 
Mark G. Patton
Title: Chairman

Tenant:

OMNIPOINT HOLDINGS, INC.

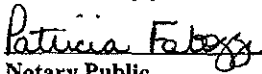
Dated: 11/15/2001

BY: 
Title: Technical Director

Landlord:

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this 15th day of November, 2001, before me personally came Mark G. Patton, to me known and known to me to be the Chairman of the ERIE COUNTY WATER AUTHORITY, who, being by me duly sworn, did depose and say that he is the Chairman of the ERIE COUNTY WATER AUTHORITY, the body described in and which executed the foregoing contract; that he knows the seal of said Authority; that the seal affixed to said contract was such seal; that by virtue of authority conferred upon him he subscribed his name to the foregoing agreement and that he executed the same as Chairman for the purposes therein mentioned.

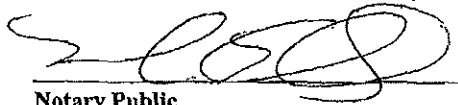

Notary Public

PATRICIA FABOZZI #4957586
Notary Public, State of New York
Qualified in Erie County
My Commission Expires October 16, 20 05

Tenant:

STATE OF NEW YORK)
COUNTY OF Orange) ss.:

On this 6 day of November, 2001, before me personally came Robert L. Tarsons
_____ to me known to be the person who executed the foregoing instrument and who being
duly sworn by me, did depose and say that he is the Technical Director of Omnipoint
Holdings, Inc. and that (s)he executed the foregoing instrument in the firm name of Omnipoint
Holdings, Inc. and that (s)he had the authority to sign the same, and (s)he acknowledged to me that
(s)he executed the same as the act and deed of said firm for the uses and purposes therein
mentioned.



Notary Public

MARK A. KIJIK
Notary Public, State of New York
Qualified in Ongh. Co. No. 01KU5061349
Commission Expires June 03, 2003
E 2003

EXHIBIT "A"

DESCRIPTION OF PREMISES

The area to be leased to Tenant by landlord is the area of the water tank as shown on the site drawings referred to in EXHIBIT "C" which are on file with the Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227.

EXHIBIT "B"

LEGAL DESCRIPTION

LIBER 9389 AT PAGES 85-87 and LIBER 9387 AT PAGES 141 and 142, and as further
described on Deeds attached hereto and made a part hereof.

QUITCLAIM CORPORATION DEED

THIS INDENTURE made, the 3rd day of May 19 84
between the COUNTY OF ERIE, a municipal corporation organized
under the laws of the State of New York with offices at
95 Franklin Street, Buffalo, Erie County, New York, party of the
first part, and Erie County Water Authority, Ellicott Sq. Bldg.
Buffalo, N.Y. 14203

party of the second part

WITNESSETH that the party of the first part, in
consideration of

Two thousand five hundred----- DOLLARS (\$ 2,500.00)

lawful money of the United States,
paid by the party of the second part, does hereby remise, release
and quitclaim unto the party of the second part,
and assigns forever,

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst,
County of Erie and being part of Lot 31, Township 11, Range 7
of the Holland Land Company survey (so-called), bounded and
described as follows:

BEGINNING at the most northerly point of the lands described in
a deed to the Town of Amherst, recorded in Liber 7248 of Deeds
at Page 189; which point is also on the easterly line of the
lands owned by Niagara Mohawk Power Corporation.

Thence: Northeasterly, along the easterly line of the Niagara
Mohawk Power Corporation lands, a distance of 125.11 feet to a
point on the westerly line of the Youngman Memorial Highway as
established by the People of the State of New York for the Ontario
Thruway - Main Street connection and shown on Map No. 166,
Parcel No. 166.

Thence: Southerly, along the westerly line of the Youngman
Memorial Highway as referred to above, a distance of 1075.39 feet
to a point on the northerly boundary of Wehrle Drive.

Thence: Westerly, along the northerly boundary of Wehrle Drive,
a distance of 45.0 feet to the southeasterly corner of the Town
of Amherst lands.

Thence: Northerly, along the easterly line of the Town of Amherst
lands, a distance of 958.50 feet to the POINT OF BEGINNING con-
taining 45,672± square feet, 1.05± acres.

Being and intended to be part of the lands owned by the County of
Erie by Internal Revenue tax foreclosure, dated August 1, 1937.

Subject to the condition that these premises will be used for
public or governmental purposes only, otherwise it shall revert
back to the County of Erie.

ISSUED BY
ERIE COUNTY
REAL PROPERTY
TAX DIVISION

SECTION
80.15
ERIE COUNTY REAL PROPERTY TAX DIVISION



COUNTY OF ERIE
a municipal corporation organized under the laws of the State of
New York.

IN WITNESS WHEREOF, the party of the first part has
caused its corporate seal to be hereunto affixed, and these
presents to be signed by its duly authorized officer, this
7th day of June Nineteen Hundred and 84.

Doc. No. 54-1022-F
Approved as to Form
Erie County Attorney

COUNTY OF ERIE

By

Edward J. Rutkowski
EDWARD J. RUTKOWSKI, County Executive

JUN 18 1924

John M. Miller
Assistant County Attorney

STATE OF NEW YORK)
COUNTY OF ERIE) ss:-

On this 7th day of June, Nineteen Hundred and
eighty-four, before me personally came EDWARD J. RUTKOWSKI, to
me personally known, who, being by me duly sworn, did depose and
say that he is the County Executive of the County of Erie, the
corporation described in, and which executed the within Instrument,
with principal offices at 95 Franklin Street, Buffalo, New York;
that he knows the seal of said corporation; that the seal affixed
to said Instrument is such corporate seal; that it was so affixed
by order of the Erie County Legislature; and that he signed his
name thereto by like order.

James W. ...

JAMES W. ...
Notary Public, State of New York
My Commission Expires ...

APPROVED AS TO CORRECTNESS
DATE July 1924
James W. ...
Director-Real Property Tax

...the appurtenances and all the estate and rights of the party of the first part in and to the said premises.

To have and to hold, the abovesaid premises unto the said party of the second part, its successors and assigns forever.

In Presence of

In Witness Whereof, The party of the first part has caused its corporate seal to be hereunto affixed, and these presents to be signed by its duly authorized officer this 18 day of 84

Nineteen Hundred and Eighty-four
TOWN OF AMHERST

By *John R. Sharpe*
JOHN R. SHARPE, Supervisor

State of New York
County of Erie

On this 18 day of October
Nineteen Hundred and 84

before me personally came John R. Sharpe

to me personally known, who, being by me duly sworn, did depose and say that he resides in the Town of Amherst that he is the Supervisor of the Town of Amherst the corporation described in, and which executed, the within Instrument; that he knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Maria A. Christie

MARK A. CHRISTIE
NOTARY PUBLIC, State of New York
Qualified in Erie County
by Commissioner Expiration March 31, 1916

DBA OCT 22 PM 2:13
FILED
ERIE COUNTY
CLERK'S OFFICE



150

Town of Amherst

Co

Erie County Water Authority

Filed October 10 1904

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

Filed for record on order of the Court Page 150

at 10:00 A.M.

on the 10th day of October 1904

at 10:00 A.M.

at 10:00 A.M.

at 10:00 A.M.

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111 227730

This Indenture

Made the 18th day of October Nineteen Hundred and 89

Between Town of Amherst, a municipal corporation with its principal office at 5583 Main Street, Williamsville, New York 14221

party of the first part, and

Erie County Water Authority, a public authority with its principal office at Ellcott Square Building, Buffalo, New York 14203

party of the second part.

Witnesseth, that the said party of the first part, by consideration of One and more Dollars, (\$ 1.00 & more) lawful money of the United States, paid by the part Y of the second part, do es hereby remit, release and forever Quit-Claim unto the said part Y of the second part, its successors and assigns forever, all

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York and being part of Lot 34 of Township 11, Range 7 of the Holland Land Company survey (so-called), bounded and described as follows:

BEGINNING at the most northerly corner of the lands described in a deed to the Town of Amherst recorded in Liber 7248 of Deeds at Page 189; thence, southwesterly, along the westerly line of the Town of Amherst lands, a distance of 240.0 feet to a point; thence, southeasterly, on a line measured at right angles to the last described course, a distance of 92.52 feet to a point on the easterly line of the Town of Amherst lands; thence, northerly, along the Town of Amherst lands, a distance of 257.22 feet to the POINT OF BEGINNING containing 11,102 square feet, 0.25 acres.

Being and intended to be part of the lands described in a deed to the Town of Amherst recorded in Liber 7248 of Deeds at Page 189.

RECEIVED
\$ EXEMPT
REAL ESTATE
OCT 22 1984
TRANSFER TAX

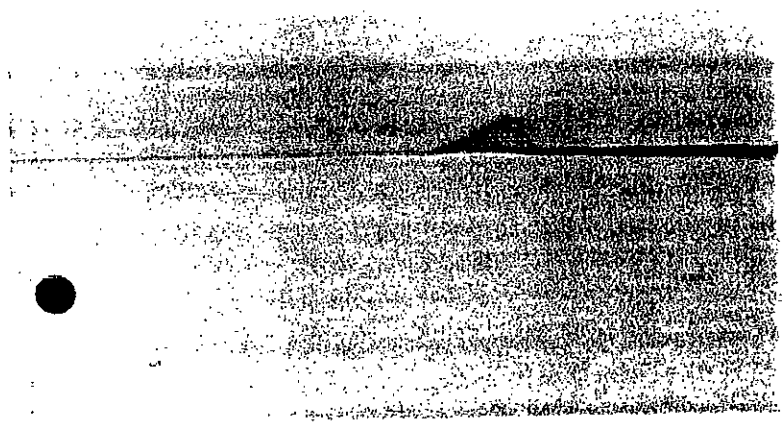


EXHIBIT "D"

Certificate of Insurance and Insurance Standards.

ACORD

CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)
11/7/2001

PRODUCER Aon Risk Services, Inc. of WA 1420 6th Avenue, Suite 1200 Seattle, WA 98101	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHT UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURERS AFFORDING COVERAGE	
INSURED	INSURER A: St Paul Fire & Marine Ins
VoiceStream Wireless Corp, a Delaware Corporation & its subsidiaries & Affiliates incl. Cook Inlet/VG GSM Subsidiaries 12920 Southeast 38th Street Bellevue, WA 98006	INSURER B: National Union Fire Ins. Co.
	INSURER C: Lumbermans Mutual Casualty Company
	INSURER D: Factory Mutual Insurance Co
	INSURER E:

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES. THE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCURRENCE <input checked="" type="checkbox"/> OWNERS & CONTRACTOR'S PROT <input type="checkbox"/> <input type="checkbox"/>	TE08400984 Certificate Holder is an Addtl. Insd.	5/1/2001	5/1/2002	GENERAL AGGREGATE	\$ 2,000,000	
					PRODUCTS - COMP/OP AGG	\$ 2,000,000	
					PERSONAL & ADV INJURY	\$ 1,000,000	
					EACH OCCURRENCE	\$ 1,000,000	
					FIRE DAMAGE (Any One Fire)	\$ 1,000,000	
					MED EXP (Any One Person)	\$ 25,000	
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> <input type="checkbox"/>	TE08400984 AOS TE0840098401 TX MA08400002 MA TE08400988 VA TE08401112 OH	5/1/2001	5/1/2002	COMBINED SINGLE LIMIT	\$ 1,000,000	
					BODILY INJURY (Per person)	\$	
					BODILY INJURY (Per accident)	\$	
					PROPERTY DAMAGE	\$	
					AUTO ONLY - EA ACCIDENT		\$
					OTHER THAN AUTO ONLY:		\$
					EACH ACCIDENT		\$
					AGGREGATE		\$
					EACH OCCURRENCE		\$ 5,000,000
					AGGREGATE		\$ 5,000,000
B	EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM	8E 739-7346	5/1/2001	5/1/2002	EACH OCCURRENCE	\$ 5,000,000	
					AGGREGATE	\$ 5,000,000	
					OTHER		\$
					NO STATUTE TORT LIMITS		\$
C	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input checked="" type="checkbox"/> INCL <input type="checkbox"/> EXCL	SBA12965301 \$100,000 SIR SBA12965401 AZ SBA12965501 WI	5/1/2001	5/1/2002	E.L. EACH ACCIDENT	\$ 1,000,000	
					E.L. DISEASE - POLICY LIMIT	\$ 1,000,000	
					E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	
					OTHER		\$
D	OTHER Real & Pers Prop & IM Inc, BI & CE \$250,000 transk	UV457 TIB & BI/Mach & Bldgs All Risk Inc.	5/1/2001	5/1/2002	\$5 Million Any loc resident, various deductibles Special forms		

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS VS/4013/ 14886

SITE NUMBER: 368B101
 SITE NAME: AMHERST WATER TANK
 SITE ADDRESS: 489 WERHLE DRIVE, AMHERST, NY
 CERTIFICATE HOLDER IS AN ADDITIONAL INSURED FOR GL SOLELY AS RESPECTS OPERATIONS OF THE NAMED INSURED AT THE ABOVE LOCATION.

ERIE COUNTY WATER AUTHORITY
 350 ELLICOTT SQUARE BLDG.
 295 MAIN STREET
 BUFFALO, NY 14203-2408

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Mary Vitale


EXHIBIT "E"

CONSENT OF OWNER

Re: PREMISES AT: 496 Wehrle Drive
Amherst, New York 14221
(Wehrle Tower)

The undersigned, as owner of the above property, does hereby consent that Omnipoint Holdings, Inc., at Omnipoint Holdings, Inc.'s sole expense, may make application to the State of New York and/or any other governmental entity or agency for site plan approval, special permits, building permits, variances and any and all other regulatory applications, permits and approvals from the Town of Amherst and/or any other governmental or regulatory body having jurisdiction, including execution of any and all such applications in the name of the undersigned, for installing, removing, replacing, maintaining and operating a personal communications service including without limitation, tower, base station, related antenna equipment and fixtures.

Dated: 11-15-01, 2001 ERIE COUNTY WATER AUTHORITY

BY: 
Mark G. Patton
Chairman