

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Gary Shimun, Town Administrator / 797-1030

PREPARED BY: Phillip R. Holste, Program Manager / 797-1041

SUBJECT: Resolution

AFFECTED DISTRICT: 2

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE TOWER SPACE LICENSE BETWEEN AMERICAN TOWER AND METROPCS CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 6911 ORANGE DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: On November 19, 1997, the Town signed an agreement (R97-406) with Omnipoint Communication DEF Operation, Incorporated to lease space for a monopole cellular tower at the Public Works Compound, 6911 Orange Drive. Subsequently, Omnipoint was purchased by American Tower Delaware Corporation. This initial agreement allowed two co-locations or three carriers on the monopole and stated that the Town would receive 50% of co-location revenue.

On February 7, 2007, a first amendment to the initial agreement was approved (R2007-31). This amendment provided for the placement of three (3) co-locations or a total of four (4) carriers. It also leases an additional 192 square feet of ground space to American Tower and granted permission to the addition of MetroPCS to the monopole. On August 1, a second amendment was approved (R2007-203). This amendment provided for the placement of five (5) co-locations or six carriers on the tower. It also leases an additional 360 square feet of ground space to American Tower.

The second amendment states that the Town Council has final approval of any co-location agreement between American Tower and any future carriers. This resolution approves the co-location agreement or tower space license and grants permission to MetroPCS to co-locate on the monopole.

PREVIOUS ACTIONS: R97-406 (Original lease agreement), R2007-31 (First Amendment), R2007-203 (Second Amendment)

CONCURRENCES: Not applicable

FISCAL IMPACT: Yes

Has request been budgeted? No

Additional Comments: The Town will receive \$14,400 annually

RECOMMENDATION(S): Motion to approve.

Attachment(s): Resolution, Exhibit I: Tower Space License

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE TOWER LICENSE LICENSE BETWEEN AMERICAN TOWER AND METROPCS CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 6911 ORANGE DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, LESSOR and OMNIPOINT entered into that certain Lease Agreement (“Agreement” dated November 19, 1997, which by this reference is incorporated herein and made a part hereof, whereby LESSOR leased to OMNIPOINT that certain real property in Broward County, Florida, located at 6911 Orange Drive, Davie, FL, more specifically described in and substantially shown as outlined on Exhibit “A” attached hereto and made a part hereof (“Property”); and

WHEREAS, LESSOR and TENANT previously amended the Agreement pursuant to the First Amendment to the Lease Agreement dated February 7, 2007 to allow four (4) carriers and lease an additional 360’ of ground space; and

WHEREAS, LESSOR and TENANT previously amended the Agreement pursuant to the Second Amendment to the Lease Agreement dated August 1, 2007 to allow six (6) carriers and lease an additional 360’ of ground space; and

WHEREAS, TENANT has agreed to a tower space license with MetroPCS for co-location on the monopole; and

WHEREAS, TENANT and MetroPCS have requested the Town’s approval of the license.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the recitals set forth above are true and correct and are made a part of this resolution.

SECTION 2. The Town Council of the Town of Davie hereby approves the aforementioned tower space license between American Tower and MetroPCS.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2008.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK
APPROVED THIS _____ DAY OF _____, 2008

EXHIBIT I: TOWER SPACE LICENSE

Licensor Site Name/Number: Davie Public Works, FL / 91540
Licensee Site Name/Number: ATC Davie Public Works / FL515SW515

SCHEDULE TOWER SPACE LICENSE

This Schedule is executed and delivered pursuant to that certain Master Tower Space License Agreement between Licensor and Licensee dated June 7, 2005 (the "Agreement"). All terms and conditions of the Agreement are incorporated herein by reference and made a part hereof for all purposes.

Upon the execution by Licensee and Licensor, Licensee hereby licenses the Licensed Premises described below or the installation and operation of its Equipment described herein in accordance with the terms and conditions of the Agreement and those set forth below:

License Contract Number:

Licensee Information:

Licensee's Name: Metro PCS Florida, LLC, a Delaware limited liability company
Notice Address: MetroPCS Florida, LLC
1000 Sawgrass Corporate Parkway, Suite 400
Fort Lauderdale, FL 33323
Attn: Leasing & Zoning Manager
Contact Name: Leasing & Zoning Manager
Contact Number: 954-839-2600
Fax Number: N/A

With Copy to: MetroPCS Florida
8144 Walnut Hill Lane, Suite 800
Dallas, TX, 75231

Licensor Information:

Notice Address: Unisite/Omnipoint FL Tower Venture, LLC
c/o American Tower Corporation
10 Presidential Way
Woburn, MA 01801
Contact Name: Contracts Manager
Contact Phone Number: 781-926-4500
Contact Fax Number: 781-926-4555
Remittance Address: Unisite/Omnipoint FL Tower Venture, LLC
c/o American Tower Corporation
Dept. 5305
P.O. Box 30000
Hartford, CT 06150-5305

Tower Information:

Licensor Site Name: Davie Public Works, FL Coordinates: 26-4-9.2 N 80-14-22 W
Licensor Site Number: 91540

Is this Licensed Space subject to a right of first refusal? ____ Yes X No
Is Licensor requiring use of a stackable shelter? ____ Yes X No
Is this Tower Facility on owned or leased land? Owned ____ Leased X (if leased the
Ground Lease with economic terms redacted shall be attached as Exhibit C.)
Will this Tower Facility require structural modifications to accommodate Licensee's
Equipment for Its initial installation? ____ Yes X No

License Fees and Term:

License Commencement Date: the earlier of the commencement of installation of Licensee's equipment or December 1, 2007, which shall in no event exceed ninety (90) Days from the date this Schedule is mailed to Licensee, the Offer Date, as set forth in Section 4.2, except as delayed as provided in the "Other Provisions" section of this Schedule).

The date this Schedule is mailed to Licensee, the Offer Date, is September 1, 2007.

License Fee: Two Thousand Four Hundred and 00/100 Dollars (\$2,400.00), payable monthly in advance with the first payment due thirty (30) Days from the date the invoice is mailed by Licensor to Licensee.

Refer to Section 4.2 of the Agreement for the duration of the Term (including renewal periods) and Section 6.1 of the Agreement for the Annual Escalator.

Licensee Equipment Information:

Licensee's Equipment, Frequencies and Channels and the identification of the Licensed Space at the Tower Facility are described in Exhibit A, which is incorporated herein by reference and made a part hereof.

Site Drawings pursuant to Section 8.2(i) of the Agreement, including the location of Licensee's Equipment within Licensor's building or shelter (if applicable) shall be attached hereto as Exhibit B.

A copy of any applicable and available Ground Lease with the economic terms redacted as Exhibit C of the Schedule.

As-Built Drawings pursuant to Section 8.2(i) of the Agreement shall be attached hereto as Exhibit D.

Other Provisions:

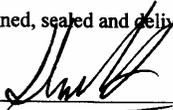
- a) Notwithstanding anything to the contrary in the Agreement, the offer expressed to Licensee in this Schedule shall automatically become null and void with no further obligation by either party hereto if a structural analysis of the Tower Facility completed after the execution of this Schedule by Licensor but before the commencement of the installation of Licensee's Equipment indicates that the Tower Facility is not suitable for Licensee's Equipment unless Licensor and Licensee mutually agree that structural modifications or repairs shall be made to the Tower Facility on mutually agreeable terms.
- b) Licensor and Licensee agree and acknowledge that Licensee shall be responsible for painting the transmission lines to match the colors of the tower.
- c) Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

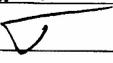
[SIGNATURES APPEAR ON THE NEXT PAGE]

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Licensor Site Name/Number: Davie Public Works, FL / 91540
Licensee Site Name/Number: ATC Davie Public Works / FL515SW515

Signed, sealed and delivered in the presence of:



Witness


Witness

Agreed to and accepted by:

LICENSOR:

Unisite/Omnipoint FL Tower Venture, LLC, a
Delaware limited liability company

By: 

Name: Richard Rossi

Title: Director, Contract Management

Date: 11-8-07

Signed, sealed and delivered in the presence of:



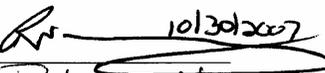
Witness


Witness

Agreed to and accepted by:

LICENSEE:

Metro PCS Florida, LLC, a Delaware limited liability
company

By:  10/30/2007

Name: Robert Negron

Title: VP Finance

The offer of license expressed in any this Schedule as offered to Licensee shall automatically expire and become void if not accepted and executed by Licensee and such acceptance received by Licensor within thirty (30) Days of the Offer Date in accordance with Section 3. This Schedule does not constitute Licensed Space until completed and executed by both parties in accordance with Section 3.1(c).

Licenser Site Name/Number: Davie Public Works, FL / 91540
Licensee Site Name/Number: ATC Davie Public Works / FL515SW515

EXHIBIT A
DESCRIPTION AND LOCATION OF EQUIPMENT

See attached

