

AMENDMENT NO. 3  
ANTENNA LEASE AGREEMENT  
T-MOBILE WEST LLC  
707 Fir Street  
Olympia, Washington 98507  
SE05016C / Fir Site

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THIS Amendment No. 3 is effective as of the date of the last authorizing signature below. The parties to this Amendment No. 3 are the CITY OF OLYMPIA, a Washington municipal corporation ("Olympia"), and T-MOBILE WEST LLC, a Delaware limited liability company, successor in interest to Western PCS BTA I Corporation, a Delaware corporation ("Lessee"). Olympia and Lessee are sometimes hereinafter referred to collectively as the "Parties" and each individually as a "Party".

RECITALS

- A. On November 12, 1997, Olympia and Lessee entered into an Antenna Lease Agreement for the Fir Storage Tank Site located at 707 Fir Street NW, Olympia, Washington (the "Lease Agreement").
- B. The term of the Lease Agreement was to run until October 31, 2002, with the opportunity to negotiate an additional five- year term. The Parties negotiated an additional five-year term, which commenced November 1, 2002 and expired October 31, 2007. The Parties acknowledge that the Lease Agreement expired by its terms and Lessee was a month-to-month tenant beginning November 1, 2007.
- C. On December 13, 2016, Olympia and Lessee entered into an Amendment No. 1 to extend the term through October 31, 2021 and increase the basic rent. Following execution of Amendment No. 1, Lessee ceased to be a month-to-month tenant and resumed tenancy under the terms of the Lease Agreement, as Amended.
- D. On January 20, 2022, Olympia and Lessee entered into an Amendment No. 2 to extend the term through October 31, 2022, to provide for contract renewal term negotiations, and to increase the Basic Rent.
- E. On November 1, 2022, with the term of the Lease Agreement (extended by Amendment No. 2) having expired on October 31, 2022, Lessee again became a month- to month tenant.
- F. The Parties now wish to amend the Lease Agreement a third time to extend the term, increase the Basic Rent amount, and make other changes, as set forth below. The parties intend that upon execution of this Amendment No. 3, Lessee will cease to be a month-to-

month tenant and that Lessee's tenancy will be governed by the terms of the Lease Agreement, as amended by the previous amendments, and this Amendment No. 3.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. Item 3 of the Lease Agreement, as amended by Amendment No. 1 and Amendment No. 2, is hereby amended as follows:

Lessee shall pay rent to Olympia in the sum of Twenty-Seven Thousand Four Hundred Three and 78/100 (\$27,403.78) to cover the time period November 1, 2022 through October 31, 2023. Such payment shall be made within thirty days of the effective date of this Amendment No. 3. Lessee shall make payment to the Director of Finance and Budget at Olympia City Hall, 601 4<sup>th</sup> Avenue East Olympia, WA 98507.

In addition to the Basic Rent, Lessee shall also pay to the Olympia Director of Finance applicable leasehold excise taxes, if any, assessed pursuant to RCW 82.29A and OMC 3.36, at the same time as the Basic Rent. If any Basic Rent payment is not received by Olympia as set forth in the Lease Agreement, as amended, the past due amount shall bear interest at the rate of twelve percent (12%) per annum, or any portion thereof, until paid in full.

2. Section 6 of the Lease Agreement, as amended by Amendment No. 1 and Amendment No. 2, is hereby amended by as follows:

The term of the Lease Agreement shall commence November 1, 2022, and shall run through October 31, 2023 during which time Olympia will develop new master lease language for Lessee's consideration, in anticipation of the Parties entering into a new lease agreement. No additional extension of the term of this Lease Agreement will occur. If Olympia and the Lessee do not enter into a new Lease Agreement within thirty (30) days prior to the expiration of this Lease Agreement, Olympia shall provide written notification to the Lessee that the Lessee shall remove all its equipment and personal property whatsoever from the Property within sixty (60) days of the end of the term of the Lease Agreement, or sixty (60) days from the date of Olympia's written notification, whichever is later.

3. Section 2 of the Lease Agreement is hereby amended as follows:

The use of the Area shall be limited to construction, maintenance, and operation of three (3) antenna sectors and associated equipment used by Lessee. Said items shall be considered equipment. Any other use of said area shall cancel this Lease Agreement. This Lease Agreement does not grant Lessee any zoning or land use approvals for the uses mentioned herein. Lessee shall obtain any and all land use and zoning approvals as are necessary for its operations, including but not limited to, permits for buildings, structures, towers, and antennas. Lessee may access through the Property the Leased Area to install, operate, and

maintain its Antenna Facilities. Lessee shall request access to the Property 24 hours in advance through Public Works Dispatch (360.753.8333). In the event of an emergency, should the Lessee need access to the Property outside of normal business hours, the Lessee shall contact Public Works Dispatch (360.753.8333). Olympia may charge Lessee for whatever expense, including employees' wages, that Olympia may incur in providing after hours access to the Lessee.

4. Section 18 of the Lease Agreement is hereby amended as follows:

In addition to termination under section 7 herein, Olympia may terminate this Lease Agreement after written notice to Lessee of its intent to do so given at least sixty (60) days prior to such termination. Such termination shall be permitted in the event Olympia has a need to use the Property. Lessee may terminate this Lease Agreement with at least sixty (60) days written notice. Such termination shall also be permitted in the event Lessee wishes to terminate this Lease Agreement. Lessee shall also be permitted to terminate this Lease with sixty (60) days written notice in the event that Lessee cannot receive and transmit 360 degrees from the area as defined in Section 1 for reasons beyond Lessee's control. In this event, Lessee shall be entitled to a pro rata refund of Basic rent less any damages it may have caused the Property.

5. The Parties hereby ratify and reaffirm the Lease Agreement. The Parties hereby confirm that the Lease Agreement, as amended by Amendment No. 1, Amendment No. 2, and this Amendment No. 3 remains in effect.
6. All remaining provisions of the Lease Agreement as previously amended not here amended or supplemented remain as written in said Lease Agreement as amended and continue in full force and effect.
7. Each Party hereto represents and warrants to the other that all necessary corporate authorizations required for execution and performance of this Amendment No. 3 have been given and that the undersigned officer of each Party is duly authorized to execute this Amendment No. 3 and bind the Party for which it signs.

IN WITNESS WHEREOF, the Parties, having read the foregoing and intending to be legally bound hereby, have caused this Amendment No. 3 to be executed by their duly authorized representatives as of the date(s) written below.

CITY OF OLYMPIA

By: \_\_\_\_\_  
Steven J Burney  
City Manager  
Date of Signature: \_\_\_\_\_

APPROVED AS TO FORM:

Michael M. Young  
Deputy City Attorney

T-MOBILE WEST LLC

By: Elise Pettyjohn  
Name Elise Pettyjohn  
Title Sr. Manager  
Date of Signature: 05/11/2023



TMO Signatory Level: L08,SL08

**CITY OF OLYMPIA ACKNOWLEDGMENT**

STATE OF WASHINGTON    )  
   ) ss.  
 COUNTY OF THURSTON    )

On the \_\_\_\_ day of \_\_\_\_\_ 2023, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Steven J. Burney, to me known to be the City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she/they is/are authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Print Name

NOTARY PUBLIC in and for the State of

\_\_\_\_\_  
 Residing at

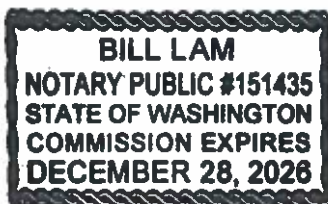
My appointment expires: \_\_\_\_\_

**LESSEE ACKNOWLEDGMENT**

STATE OF Washington    )  
   ) ss.  
 COUNTY OF King        )

On the 11th day of May 2023, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Elise Pettyjohn, to me known to be the Sr. Manager of T-Mobile West LLC, a Delaware limited liability company, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability corporation for the uses and purposes therein mentioned and on oath states that she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.



\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Print Name

NOTARY PUBLIC in and for the State of

WASHINGTON

Residing at RENTON WA

My appointment expires: 12/28/2026