

AMENDMENT NO. 3
ANTENNA LEASE AGREEMENT
T-MOBILE WEST LLC
3920 Hoffman Court
Olympia, Washington 98501
SE05026A / Hoffman Site

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 referred to collectively as the "Parties" and each individually as a "Party".

RECITALS

- A. On March 2, 1998, Olympia and Lessee entered into an Antenna Lease Agreement for the Hoffman Storage Tank Site located at 3920 Hoffman Court, Olympia, Washington (the "Lease Agreement").
- B. The term of the Lease Agreement was to run until October 31, 2003, with the opportunity to negotiate an additional five-year term. The Parties negotiated an additional five-year term, which commenced November 1, 2003 and expired October 31, 2008. The Parties acknowledge that the Lease Agreement expired by its terms and Lessee was a month-to-month tenant beginning November 1, 2008.
- C. On December 13, 2016, Olympia and Lessee entered into an Amendment No. 1 to extend the term of the Lease Agreement 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 February 24, 2022, Olympia and Lessee entered into an Amendment No. 2 to extend the term of the Lease Agreement through October 31, 2022, provide for contract renewal term negotiations, and 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. Section 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 Eighteen Thousand Nine Hundred Seventy-nine and 78/100 (\$18,979.78) to cover the one year time period November 1, 2022 thru October 31, 2023 ("Basic Rent"). Lessee shall make payment to the Director of Finance and Budget at Olympia City Hall, 601 4th Avenue East Olympia, WA 98507. Such payment shall be made within thirty days of the effective date of this Amendment No. 3.

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 as follows:

The term of the Lease Agreement runs 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 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 of 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 sections and associated equipment 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 to 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 of 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 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 Lease Agreement is further hereby amended by the addition of the following new section:

Within sixty (60) days of execution of Amendment No. 3 to the Lease Agreement, Lessee shall clearly mark its antenna sectors and associated equipment located on the Property (i.e., the antenna sectors and associated equipment, located on the Property, that Lessee owns or controls). Olympia will use this ownership information to determine if any antenna sectors and associated equipment must be relocated due to proximity to essential Drinking Water Utility infrastructure, such as access vents. If notified by Olympia that relocation of antenna sectors and associated equipment is required, Lessee shall relocate the antenna sectors and associated equipment a minimum of ten (10) feet circumference from the edge of the vent; Lessee shall commence efforts to relocate identified equipment sixty (60) days of receipt of notice from Olympia. Failure to meet this requirement is grounds for termination of this Lease Agreement at the sole discretion of Olympia.

6. 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.
7. All remaining provisions of the Lease Agreement, as previously amended, not here amended or supplemented remain as written in said Lease Agreement as previously amended and continue in full force and effect.
8. 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.

****Signatures on the following Page****

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

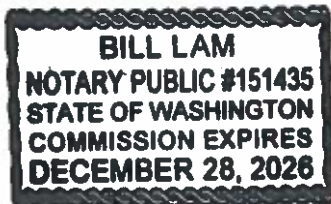
My appointment expires: _____

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

Residing at

My appointment expires: 12/28/2026