

Wilmington, Delaware
February 6, 2020

#4763

Sponsor:

**Council
Member
Turner**

WHEREAS, pursuant to Wilmington Charter Section 8-205, the City may sell or exchange any real estate belonging to the City or grant any license, easement, right-of-way, or other interest over or in such real estate with authority by general ordinance and later resolution from Council to do so; and

WHEREAS, City Code Section 2-626 provides that the Council shall by resolution approve the grant of any utility license, easement, or right-of-way by the Department of Public Works; and

WHEREAS, on May 19, 2005, City Council passed a resolution approving a license agreement (the "License Agreement") between the City and Sprint Spectrum Realty Company, LLC (formerly a limited partnership) a Delaware limited liability company, successor in interest to Sprint Spectrum L.P.; ("Sprint") which permitted Sprint to install and operate communications antennas on and a control cabinet at the base of the City's water tower located on or near 1651 Foulk Road, Wilmington, Delaware; and

WHEREAS, the License Agreement is set to expire on July 31, 2020; and

WHEREAS, the parties desire to amend the License Agreement (a copy of the amendment, in substantial form, is attached hereto as Exhibit "A") to: (1) extend the term of the License Agreement for an additional five (5) years commencing on August 1, 2020; (2) increase the license fee payable by Sprint to the City under the License Agreement to \$3,333.33 per month commencing on August 1, 2020 with an increase of three percent (3%) annually thereafter; and (3) provide Sprint with an option to renew the License Agreement for two (2) additional terms of five (5) years after the first five-year extension.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Council hereby authorizes and approves the “First Amendment to License Agreement” between the City of Wilmington and Sprint Spectrum Realty Company, LLC, a copy of which, in substantial form, is attached hereto as Exhibit “A”, and the Commissioner of Public Works, or her designee, is hereby authorized to execute as many copies of said “First Amendment to License Agreement” as may be necessary.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution approves the First Amendment to a License Agreement between the City and Sprint Spectrum Realty Company, LLC (“Sprint”) which permits Sprint to install and operate communications antennas on and a control cabinet at the base of the City’s water tower located on or near 1651 Foulk Road, Wilmington, Delaware. The First Amendment will: (1) extend the term of the License Agreement for an additional five (5) years commencing on August 1, 2020; (2) increase the license fee payable by Sprint to the City under the License Agreement to \$3,333.33 per month commencing on August 1, 2020 with an increase of three percent (3%) annually thereafter; and (3) provide Sprint with an option to renew the License Agreement for two (2) additional terms of five (5) years after the first five-year extension.

W0108848

EXHIBIT A

FIRST AMENDMENT TO LICENSE AGREEMENT

THIS FIRST AMENDMENT TO LICENSE AGREEMENT ("First Amendment"), is made this _____ day of _____, 201__ ("Effective Date"), by and between The City of Wilmington, a municipal corporation of the State of Delaware, with its principal place of business at 800 French Street, Wilmington, DE 19801 ("Licensor") and Sprint Spectrum Realty Company, LLC (formerly a limited partnership) a Delaware limited liability company, successor in interest to Sprint Spectrum L.P., with its principal place of business at 6220 Sprint Parkway, Overland Park, KS 66251 ("Licensee").

WHEREAS, Licensor is the fee simple owner of that certain parcel of property located at or near 1651 Foulk Road, Wilmington, DE 19810; and

WHEREAS, Licensor and Licensee entered into the certain Agreement dated May 24, 2005 ("Agreement" or "License"), whereby Licensee licenses a certain space on Licensor's water tank that is located on the Property; and

WHEREAS, Licensor and Licensee desire to amend the Agreement to extend the term of the Agreement; and

WHEREAS, Licensor and Licensee desire to adjust the license fee in conjunction with the modifications to the Agreement contained herein.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee agree as follows:

1. **Extension of Term.** In addition to the extension terms presently set forth in the Agreement at Section 2, the parties hereby agree to add three (3) additional extension terms of five (5) years each. Accordingly, commencing as of August 01, 2020, the term will automatically renew for a five (5) year period upon the same terms and conditions of the Agreement except for the adjustment of fees described below. Licensee shall have the option to renew the term for two (2) additional five (5) year terms upon the same terms and conditions set forth in the Agreement except for the adjustment of fees described below, unless Licensee notifies Licensor in writing of Licensee's intention not to renew the Agreement at least ninety (90) days prior to the expiration of the existing Agreement.

2. **License Fee.** Effective on the Effective Date, Section 3.1 of the Agreement is supplemented by adding the following to the end of the section:

Notwithstanding anything contained in Section 3.1 of the Agreement to the contrary, commencing as of August 1, 2020, the license fee payable under the Agreement shall be Three Thousand Three Hundred Thirty-Three and 33/100 Dollars (\$3,333.33) per month, subject to an annual increase thereafter in the amount of three percent (3%) over the license fee for the immediately preceding

year, and any further adjustments as provided in the Agreement.

3. **Notices.** Section 20.3 of the Agreement is hereby deleted in its entirety and replaced with the following:

All notices must be in writing and will be deemed to have been delivered upon receipt or refusal to accept delivery and are effective only when deposited in the U.S. mail, certified mail, return receipt requested and postage prepaid or when sent via nationally-recognized courier delivery service addressed to the recipient party as follows:

To Licensors:	The City of Wilmington 800 French Street, 6 th Floor Wilmington, DE 19801
To Licensee:	Sprint Property Services Sprint Site ID: PL64XC113-A Mailstop KSOPHD0101-Z2650 6220 Sprint Parkway Overland Park, Kansas 66251-2650
With a mandatory copy to:	Sprint Law Department Sprint Site ID: PL64XC113-A Attn.: Real Estate Attorney Mailstop KSOPHD0101-Z2020 6220 Sprint Parkway Overland Park, Kansas 66251-2020

Licensors or Licensee may from time to time designate any other address for this purpose by written notice to the other party.

4. **Other Terms and Conditions Remain.** Except as modified herein, all other terms and conditions of the Agreement are hereby ratified and shall remain in full force and effect. In the event of any inconsistencies between the Agreement and this First Amendment, the terms of this First Amendment shall control. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

signatures on following page

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

LICENSOR:

CITY OF WILMINGTON,
a municipal corporation

WITNESS

Kelly A. Williams
Commissioner
Department of Public Works

LICENSEE:

SPRINT SPECTRUM REALTY
COMPANY, LLC,
a Delaware limited liability company

WITNESS

By: Silvia J. Lin
Title: Manager, Real Estate

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Sprint Property Services
Sprint Site ID: PL64XC113-A
Mailstop KSOPHT0101-Z2650
6391 Sprint Parkway
Overland Park, Kansas 66251-2650

[space above this line for Recorder's use]

MEMORANDUM OF AMENDMENT

THIS MEMORANDUM OF AMENDMENT (this "Memorandum"), by and between The City of Wilmington, a municipal corporation ("**Licensor**") and Spectrum Realty Company, LLC (formerly a limited partnership), a Delaware limited liability company ("**Licensee**"), evidences the License Agreement made and entered into between Licensor and Licensee dated May 24, 2005 (the "**Agreement**") has been amended by written agreement between the parties (the "**Amendment**"). The term "Agreement" hereinafter refers to and includes the Amendment.

This Memorandum amends that certain Memorandum of License recorded with the Office of County Recorder, County of New Castle, State of Delaware, as document number 20050525-0048948 on May 25, 2005.

The Agreement provides in part that Licensor leases to Licensee certain real property owned by Licensor and located at 1651 Foulk Road, City of Wilmington, County of New Castle, State of Delaware ("**Property**") for the purpose of installing, operating and maintaining a communications facility and other improvements. The Property is legally described in Exhibit A attached hereto. The portion of the Property leased to Licensee together with non-exclusive utility and access easements is further described in the Agreement.

Commencing on August 1, 2020, the term of Licensee's lease and tenancy under the Agreement, as amended by the Amendment, is three (3) terms of five (5) years each that may be exercised by Licensee.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year indicated below.

Licensor:
The City of Wilmington,
a municipal corporation

Licensee:
Spectrum Realty Company, LLC,
a Delaware limited liability company

By: _____
(please use blue ink)

Printed Name: _____

Title: _____

Date: _____, 201____

By: _____

Printed Name: Silvia J. Lin

Title: Manager, Real Estate

Date: _____, 201____

LICENSOR NOTARY BLOCK: (please use blue ink)

STATE OF _____)
) ss.
 COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

(Use this space for notary stamp/seal)	Dated: _____
	Notary Public: _____
	Print Name: _____
	My commission expires: _____

LICENSEE NOTARY BLOCK:

STATE OF KANSAS)
) ss.
 COUNTY OF JOHNSON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

(Use this space for notary stamp/seal)	Dated: _____
	Notary Public: _____
	Print Name: _____
	My commission expires: _____

**EXHIBIT A
TO MEMORANDUM OF AMENDMENT**

Site located at 1651 Foulk Road, City of Wilmington, County of New Castle, State of Delaware, Tax Parcel #0605400013

MAP:11403720 PARCEL: 06-054-013

Legal Description:

Description: BEGINNING at a point in the center line of Foulk Road, so called, distant in the center line of said Foulk Road South 45° 33' 30", West 802.90 feet from the intersection of the center line of said Foulk Road and the center line of Silverside Road, so called being also the Northeast corner of land of this Grantor; thence North 42° 31' 00", West by land of Curtis E. Talley 600.0 feet to a point in the boundary line between the said Curtis B. Talley and this Grantor; thence South 45° 36' 30" West in land of this Grantor 300.0 feet to a point; thence South 42° 31' 00" East in land of this Grantor 300.0 feet to a point; thence North 45° 36' 30" East in inland of this Grantor 250.0 feet to a point; thence South 42° 31' 00" East in land of this Grantor 300.0 feet to a point in the center line of the above named Foulk Road; thence North 45° 36' 30" East in the center line of the above names Foulk Road 50.0 feet to the point of BEGINNING.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made as of this day of , 2005, by and between:

THE CITY OF WILMINGTON, a municipal corporation of the State of Delaware, with its principal place of business at 800 French Street, Wilmington, Delaware 19801

("LICENSOR")

and

Sprint Spectrum, L.P., a Delaware limited partnership, having an office at 6391 Sprint Parkway, Overland Park, Kansas 66251-2650

("LICENSEE")

WITNESSETH:

WHEREAS:

A. Licensor is the owner in fee simple of certain real property located on or near 1651 Foulk Road, Wilmington, Delaware, sometimes referred to as Tax Parcel 06-054-00-013, as more particularly described on Exhibit A, attached hereto and made a part hereof (the "Property") upon which there is located a water tower (the "Tower") owned by Licensor, the location of which is shown on the map or site plan attached hereto and made a part hereof as Exhibit B; and

B. Licensee desires to acquire a license to use a portion of the Property from Licensor and to construct thereon a communication shelter cabinet, and to install and maintain its communication facilities as hereinafter described on the Tower; and

C. Licensor and Licensee desire to enter into this License upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. LICENSE

1.1 Licensor hereby licenses to Licensee and Licensee hereby hires from Licensor that portion of the Property more particularly described on Exhibit B (the "Premises" or the "Licensed Premises") upon which to install the cabinet (hereinafter described) and grants to Licensee the right from time to time to install, operate, repair, replace and maintain upon the Tower those communications facilities consisting of radio equipment and related equipment, cables, accessories, improvements, and antennas ("the Facilities") at the heights and locations, all as more particularly described on

Exhibit B, attached hereto and made a part hereof, upon the terms and conditions herein contained.

1.2 Licensee shall have the right at its own cost and expense to survey the Premises. If such survey reveals any discrepancies with Exhibit B, the parties shall amicably seek to resolve such discrepancies in good faith, but in the event that they are unable to effect such resolution, then either party shall have the right to terminate this License without further liability to either party.

1.3 Licensor hereby grants to Licensee a non-exclusive easement during the term of this License for ingress and egress to the Premises upon and across the Property and the adjacent properties, if any, of Licensor for the movement of men, machinery, vehicles and equipment for the purpose of constructing, operating, repairing and maintaining the Improvements (as hereinafter defined). Such access for operation, repair and maintenance shall be on a 24-hour a day, 365 days a year basis. Licensee shall also have the right in common with others to use the parking spaces, roads and driveways located on the Property.

1.4 During the term of this License, Licensee shall also have the right to use the Property and the adjacent properties of Licensor, if any, for providing electric and telephone services to the Premises, both of which services are to be connected, installed and maintained at Licensee's sole cost and expense, in such locations as shall have been approved by Licensor, such approval not to be unreasonably withheld. Subject to the foregoing, Licensor hereby agrees to execute and deliver whatever easements may be necessary to the utility companies providing such service. The routes and locations of the utility lines shall be subject to Licensor's approval which approval shall not be unreasonably withheld. Licensee shall restore the Property, or any part thereof, which has been disturbed due to the installation of such utilities or to other construction, to its original condition, reasonable wear and tear excepted.

1.5 Licensor does not guarantee access or utility service to the Property to Licensee over lands not owned by Licensor. Licensee shall be solely responsible to satisfy itself that Licensee has such access and utility service capabilities to the Property as it may require.

2. TERMS AND RENEWALS

2.1 The term of this License shall be for five (5) years. The term shall commence on the first day of the calendar month following Lessee's receipt of the last of the Permits as defined in paragraph 4.2 below ("the Commencement Date").

2.2 Licensee shall have the option to renew the term for two (2) additional five (5) year terms, upon the same terms and conditions set forth herein, except for the adjustment to fees which is described in paragraph 3.2 below. This License shall automatically be renewed for such renewal term, unless Licensee shall notify Licensor of Licensee's intent not to renew this License no later than ninety (90) days prior to the

expiration of the original term. Absent such notice by Licensee, the term shall automatically renew without the necessity of any notice.

3. **LICENSE FEES**

3.1 The annual base fee for the first twelve months of the term shall be the sum of Twenty- Eight Thousand Eight Hundred Dollars (28,800.00). The annual base fee for each subsequent year of the term and renewal term shall be equal to the annual base fee payable hereunder during the immediately preceding twelve month period increased by the percentage increase which occurred in the Index between the first and last months of such preceding twelve month period. The Index shall be the Consumer Price Index (All Items) for the Philadelphia Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the original or any renewal term, such other government index of computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

3.2 All fee payments for the original term and renewal term shall be made in equal monthly installments, in advance. The first such installment shall be due on the Commencement Date, with each subsequent installment being due on the fifth day of each calendar month.

3.3 As additional fees, Licensee shall pay to Licensors any and all increases in real estate taxes with respect to the Property which are directly attributable to the Improvements placed on the Property by Licensee. As a condition precedent to its right to receive such payment, Licensors agree to promptly furnish proof of any such increases to Licensee including true copies of the real property tax bills rendered to Licensors. Licensee shall have the right to appeal any such taxes in its own name or that of Licensors.

3.4 In the event Licensee has not obtained all Permits as described in paragraph 4 within one hundred eighty (180) days after the execution of this License by both Licensors and Licensee, the obligation to pay the monthly fee shall thereupon commence, however, the term shall not commence until the Commencement Date as defined in Paragraph 2.1 above.

4. **USE**

4.1 Licensee shall use the Premises for the purpose of constructing, maintaining and operating a communications facility together with uses incidental thereto involving the transmission and/or receipt of radio and microwave signals, all in accordance with applicable laws.

4.2 Licensee may install on the Premises at its sole cost and expense an equipment cabinet and appurtenant facilities ("the Cabinet"), all in accordance with applicable laws. The foregoing together with the Facilities are sometimes herein collectively referred to as the "Improvements". Licensee shall be solely responsible for obtaining all Federal, State, County and Municipal approvals, licenses, certificates and permits (collectively the "Permits") as are necessary to construct, operate and maintain the Improvements. All plans and specifications for the Improvements shall be subject to Licensor's prior written approval, which shall not be unreasonably withheld or delayed but shall not exceed forty-five (45) days from receipt thereof. It is expressly agreed that the Exhibits annexed to this License do not constitute consent by Licensor to Licensee's final plans. Such final plans and specifications shall be submitted to Licensor for approval, as aforesaid (a) prior to submission to the governmental authorities having jurisdiction for final land use approvals; and (b) with respect to final construction drawings, prior to submission to the governmental authorities having jurisdiction for a building permit. Unless otherwise agreed to by Licensor in writing, Licensee shall not add or install any equipment or additional Improvements of any kind other than those that contained in the final plans which have been approved by Licensor without a subsequent agreement for the payment of additional license fees to Licensor.

Licensor also grants to Licensee the right to (i) install and operate transmission cable from the equipment to the antennas, electric lines from a main feed or off-site power source to the equipment and telephone lines from a main or off-site telephone entry point to the equipment, and (ii) erect, construct or make utility improvements, alterations or additions to the Property ("Licensee's Changes") appropriate for Licensee's use. Licensee's Changes shall require the prior written approval of Licensor, such consent not to be unreasonably delayed or withheld.

4.3 Licensee shall, at its own expense, maintain its Facilities on the Tower in a safe condition, in good order and repair and in such manner so as to not conflict or interfere with the existing uses of the Tower by the Licensor or others.

4.4 Licensee covenants and agrees that the Facilities and the installation, operation and maintenance thereof will not damage or impair the strength of the Tower and the accessories thereto nor interfere with the maintenance thereof or with the lighting system, if any, of the Tower.

4.5 Only qualified contractors and employees of Licensee shall be permitted to install, repair and remove the Facilities from the Tower.

4.6 Payment of the license fee shall entitle Licensee to install up to nine (9) antennas (3 arrays of 3) on the Tower. In the event Licensee desires to install more antennas, Licensee shall be required to obtain the written approval of Licensor, as well as a subsequent agreement with Licensor for the payment of additional license fees.

5. **CONTINGENCIES FOR THE BENEFIT OF LICENSEE**

5.1 Commencement of the term of this License is conditioned and contingent upon Licensee's obtaining all Permits after the execution of this License, as well as, but not limited to, satisfactory soil boring and engineering tests, which will permit Licensee to use the Premises and Tower as above described. Licensor hereby grants Licensee permission to commence such tests, provided, however, that Licensee shall notify Licensor in advance of its intent to perform such tests so that they can be performed in a manner which will not interfere with Licensor's operations.

5.2 Licensor shall reasonably cooperate with Licensee in its effort to obtain the Permits and shall take no unreasonable action which would adversely affect the status of the Property with respect to the proposed use thereof by Licensee. The costs shall be borne by Licensee exclusive of the time spent by Licensor in assisting with this process. In the event that any of the applications for the Permits shall be rejected or denied or the soil boring or engineering tests are found to be unsatisfactory such that Licensee determines in its sole discretion that the Premises or Tower are unusable for their intended purposes, then Licensee shall have the right to terminate this License upon notice to Licensor whereupon there shall be no further liability to either party, except that any prepaid fees shall be kept by Licensor.

5.3 Prior to the commencement of the term, Licensee shall have the right to obtain a title report or commitment for a title policy from a title insurance company of Licensee's choice. If in the opinion of Licensee, such title report shows any defects of title or any liens or encumbrances which would adversely affect Licensee's use of the Premises or Licensee's ability to obtain financing, Licensee shall have the right to cancel this License upon written notice to Licensor, whereupon there shall be no further liability to either party except that any prepaid fees shall be immediately returned to Licensee.

6. **TAXES**

6.1 Licensor shall pay all real property taxes assessed upon the Property.

6.2 Licensee shall pay all personal property taxes assessed upon the Improvements, as well as any increase in real estate taxes as described in paragraph 3.4 above.

7. **INSURANCE**

7.1 Licensee shall obtain and keep in effect throughout all periods this License is in effect, including any extension or renewal thereof, an insurance policy or policies, providing general public liability insurance against claims for personal injury (including death) and property damage in amounts not less than \$5,000,000.

7.2 Licensors shall be named as an additional insured on said liability policy and Licensee shall annually provide to Licensors evidence that such insurance is in effect.

8. **REPAIR AND MAINTENANCE**

8.1 Licensors shall keep and maintain the Property and the Tower in good order and repair.

8.2 Licensee shall keep and maintain the Premises and the Improvements in good order and repair.

8.3 Licensee recognizes that the Tower may from time to time require maintenance by Licensors, such as repainting, sandblasting, refinishing, and otherwise. Licensors and Licensee agree to mutually cooperate with each other in connection with such maintenance so as to expedite the work and minimize any disruption to Licensee's operations on the Tower. Licensors agree to give Licensee not less than sixty (60) days written notice of any routine maintenance work on the Tower, which may interfere or disrupt Licensee's operations so as to afford Licensee the opportunity to prepare for same. In the case of emergency or non-routine maintenance to the Tower which may affect Licensee's operations, Licensors shall make its best efforts to notify Licensee promptly thereof as circumstances may allow.

9. **UTILITIES**

9.1 Licensee shall be responsible at its sole cost and expense for bringing utilities to the Premises and causing an electric meter to be installed.

9.2 Licensee shall pay for all utility services used at the Premises as well as for the power needed to operate the Facilities. In the event Licensee cannot secure its own metered electrical supply from the local utility company, Licensee shall have the right, at its own cost and expense, to sub-meter from the Licensors, on a monthly basis, for the electric consumed by Licensee. Licensee shall pay monthly the current local utility company rate for sub-metered electric, after the meter is read by the Licensors and billed to Licensee.

10. **REMOVAL OF IMPROVEMENTS; SURRENDER**

10.1 It is expressly acknowledged and agreed that the Facilities are and shall remain the personal property of Licensee, removable and replaceable at any time and from time to time by Licensee, notwithstanding any physical annexation thereof to the land.

10.2 At the termination of this License, the Licensee shall remove the Improvements from the Property. Licensee shall restore the Premises to its original

condition, reasonable wear and tear excepted. If such time for removal causes Licensee to remain on the Property after termination of this License, Licensee shall be deemed to be a month to month licensee and shall pay fees at the then existing monthly rate, until such time as the removal of the Improvements are completed; provided, however, that if the Improvements are not removed within sixty (60) days after the termination of this License, they shall be deemed to have been abandoned and may become the property of the Licensor at the election of the Licensor.

11. AUTHORIZED USE

11.1 Licensor covenants, represents and agrees that the Licensor is the owner of the Property and the Tower and has the full right, power and authority to enter into, execute and deliver this License. Further, if applicable, the undersigned individuals represent that they are corporate officers or partners of the Licensor, as applicable and have the right, power, and authority to bind the Licensor.

11.2 Licensor covenants and agrees that the Licensee, on paying the fees and performing the conditions and covenants herein, may use the Premises and have the rights herein granted for the term hereof, and during any extension or renewal thereof.

12. MANAGEMENT OF SITE ENGINEERING

12.1 Licensee agrees not to interfere with communications transmission or reception equipment as shown on Exhibit C, a copy of which is attached hereto and made a part hereof, properly located on the Property owned by Licensor or others of which the Licensed Premises forms a part, provided that such equipment is actually in place as of the date of this License. Licensee also agrees not to interfere with any communications transmission or reception equipment that may be attached to the Property in the future by any other person. If Licensee should cause such interference, Licensee shall eliminate it immediately, except for brief tests necessary for the elimination of such interference.

12.2 If any measurable interference is caused by Licensor or anyone now or in the future holding a Property interest from or under Licensor due to improper or unlawful operation, or any subsequent change or addition of equipment or improvements by Licensor or any such other holder on the Property, Licensor agrees to endeavor to assist Licensee to eliminate same in a prompt and timely manner upon written notice from Licensee to Licensor in accordance with Paragraph 12.4. Notwithstanding anything contained herein to the contrary, Licensor shall not be required to cause the elimination of interference that is beyond Licensor's control, such as interference caused by parties now or in the future holding a Property interest for the operation of communications equipment from or under Licensor. In the event such interference is caused by a party holding a Property interest from or under Licensor, Licensor shall not be required to act as a mediator in resolving any disputes between

such party and Licensee and further, after Licensors has in good faith and with due diligence attempted to assist Licensee to resolve the interference experienced by Licensee, Licensee's sole remedy thereafter shall be to terminate this License, and neither party shall have any liability to the other.

12.3 Notwithstanding anything herein contained to the contrary, Licensee acknowledges the existing uses at the Property and states that none of them will cause interference with Licensee's operations.

12.4 Licensors and Licensee agree to cooperate with each other in order to try to avoid the use of any equipment which will cause interference to the other or to anyone now or in the future holding a Property interest from or under Licensors. The cooperative efforts shall include, but not be limited to the following type of actions:

(i) written notification to each other at least ten (10) days prior to the initial installation of any subsequent wireless communications antennas on the Property; or

(ii) in the event of interference, the aggrieved party shall provide evidence of such interference and such evidence shall ascertain, with a good degree of certainty, the source of such interference.

13. COMPLIANCE WITH LAWS

13.1 Licensee covenants and agrees to comply with all applicable governmental laws, rules, regulations and orders respecting the Improvements, and its use thereof including but not limited to those of the Federal Communications Commission ("FCC"), the Delaware Department of Natural Resources and Environmental Control ("DNREC") and the United States Environmental Protection Agency ("EPA").

13.2 Licensors covenants and agrees to use its best efforts to comply with all applicable governmental laws, rules, regulations and orders respecting the Property, the Tower and the use thereof including, but not limited to those of DNREC and the EPA. Licensors represents to the best of its knowledge that the Property is presently in compliance with all such laws, rules, regulations and orders.

13.3 Licensors acknowledges and agrees that Licensors is responsible for painting and lighting, if required, of its Tower and tower structures subject to this License. To the best of both parties' knowledge, at present, the Tower is not required to have any special painting or illumination features. In the event Licensors is required to paint or illuminate the Tower due to Licensee's Facilities and/or Improvements, Licensee shall cause the Tower to comply with FCC regulations at Licensee's own cost and expense, provided, however, that all such work shall be subject to the reasonable approval of Licensors.

14. **INDEMNIFICATION**

Licensee hereby agrees to defend, indemnify, and hold Licensor harmless from and against any claim, liability, loss or expense (including reasonable attorneys' fees) from personal injury (including death), property damage or other liability including without limitation claims or loss due to interference with or from the communications equipment of Licensee or that of others at or near the Property resulting from or arising out of the use and/or occupancy of the Premises and the Tower by the Licensee, its servants, agents, contractors or invitees, and the installation, operation, use, maintenance, repair or removal of the Facilities by Licensee and such persons acting on its behalf excepting, however, such claims, liabilities or damages as may be due to or caused by the negligent or intentional wrongful acts or omissions of the Licensor, or its servants, agents, contractors or invitees.

15. **DEFAULT**

15.1 If Licensee defaults in the payment of base fees, or any additional fees, or defaults in the performance of any other covenants or conditions herein contained, Licensor may give notice of such default, and if Licensee does not cure any fee default within fifteen (15) days of such notice or within forty-five (45) days of such notice of nonmonetary default (of if such nonmonetary default is of such nature that it cannot be completely cured within forty-five (45) days, if Licensee does not commence remedial action within such forty-five (45) days and thereafter proceed with reasonable diligence and in good faith to cure such default within an additional thirty (30) days, then Licensor may terminate this License on not less than fifteen (15) days notice to Licensee, and on the date specified in said notice, Licensee's right to possession of the Premises shall cease, and Licensee shall quit and surrender the Premises to Licensor and this License shall terminate as of such termination date.

15.2 Licensor shall also have any and all other rights and remedies as may be provided in law or equity in the event Licensee defaults hereunder and fails to cure such default within the applicable grace period provided for in paragraph 15.1.

15.3 In the event Licensor defaults in any of its covenants and obligations hereunder, Licensee shall provide Licensor with notice thereof, and Licensor shall have a reasonable time under the circumstance to cure such default. If Licensor fails to cure such default, Licensee shall have the right to terminate this License. Such termination shall be the sole remedy of Licensee and Licensor shall bear no further liability to Licensee.

16. **TERMINATION**

16.1 This License may be terminated by Licensee without any penalty or further liability (except as hereinafter provided) upon sixty (60) days written notice to

Licensor upon the occurrence of any of the following: (a) Licensee is unable to obtain or maintain any Permit as described in paragraph 4.2 or any and all easements or rights of way required by a third party; or (b) the Property, the Tower or the Premises is or becomes unacceptable under the Licensee's design or engineering specifications for Licensee's tower facilities or communications systems; or (c) Licensee determines that the Premises are not appropriate for Licensee's operations for economic reasons; or (d) Licensee's license to operate is revoked, removed or suspended; or (e) the Improvements, the Tower, or any material portion thereof are destroyed by fire or other casualty. In the event that Licensee terminates this License by reason of Subparagraph (c) hereof and such termination comes within the original five (5) year term, Licensee shall be responsible for and shall pay to Licensor the License fee for the remainder of such term.

16.2 This License may be terminated by Licensor without penalty or liability to Licensor therefor upon one hundred eighty (180) days written notice to Licensee in the event that Licensor removes any tower, tank or supporting structure from the Premises because of structural or environmental reasons, the adoption of new laws or regulations affecting the use of the Premises, or other similar reasons related to the inability of Licensee to continue to use the Premises for its present purpose. In addition, this License may be so terminated if the Tower, tank, or supporting structure becomes seriously impaired for any reason.

17. CONDEMNATION

If a condemning authority takes all of the Premises or the Property, or a portion sufficient in Licensee's determination, to render the Premises or Tower unsuitable for the use which Licensee was then making thereof, this License shall terminate and be of no further force or effect as of the date the title vests in the condemning authority. Licensee shall have no right to participate in the condemnation proceeds for the value of the land taken, but shall be entitled to make claim for its moving expenses if cognizable under applicable law, provided that the same does not diminish the Licensor's condemnation award. Sale of all or part of the Property to a purchaser with the power of eminent domain under the threat of condemnation shall be treated as a taking by condemnation under this Article.

18. ASSIGNMENT

18.1 Licensor may assign this License upon written notice to Licensee and said assignee will be responsible to Licensee for the performance of all the terms and conditions of this License.

18.2 Licensor agrees that Licensee may assign all rights, benefits, duties and obligations under this License without Licensor's consent to any corporation, firm or person licensed by governmental agencies to operate a wireless communications system which is (a) controlled by Licensee, or (b) controlling Licensee, or (c) otherwise

affiliated with Licensee by giving Licensors thirty (30) days written notice. Licensee shall not otherwise be permitted to assign or sublet this License to any other party without the prior written consent of Licensors, such consent not to be unreasonably withheld. In any event, Licensee shall remain liable to Licensors in connection with all of Licensee's duties and obligations under this License.

18.3 Licensee may mortgage and/or grant a security interest in this Lease and the Facilities, to Licensee's mortgagees or holders of security interests, including their successors or assigns (hereinafter collectively referred to as "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Licensors shall execute such consent to leasehold financing as may reasonably be required by Mortgagees, provided Licensee gives at least thirty (30) days advance written notice thereof to Licensors. Licensors agree to notify Licensee and Licensee's Mortgagees (if notified of any such Mortgagees) simultaneously of any default by Licensee and to give Mortgagees the same right to cure any as Licensee except that the cure period for any Mortgagee shall not be less than ten (10) days after receipt of the default notice.

19. MEMORANDUM OF LICENSE

Upon request, Licensors agree to execute a memorandum of this License in recordable form which Licensee may record in the recording office of the County in which the Property is located.

20. MISCELLANEOUS

20.1 Entire Agreement. This License contains all agreements, promises and understandings between the Licensors and Licensee. No verbal or oral agreements, promises or understandings shall be binding upon either the Licensors or Licensee in any dispute, controversy or proceeding at law, and any addition, variation or modification to this License shall be void and ineffective unless made in writing signed by the parties.

20.2 Governing Law. This License and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State of Delaware, and all disputes shall be resolved solely in the courts of the State of Delaware.

20.3 Notices. All notices hereunder, in order to be effective, must be in writing (unless otherwise expressly provided for herein) and shall be given by either certified mail, return receipt requested, or by nationally recognized overnight courier service, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To Licensors:

At the address set forth on the first page of this License.

Site Name: Foulk Road Water Tank

Site # PL64XC113-A

with a copy to: Same address, Attention: City Solicitor.

To Licensee: *Sprint Contracts & Performance, Mailstop
KSOPHT0101-Z2650, 6391 Sprint Parkway,
Overland Park, Kansas 66251-2650*

with a copy to: *Sprint Law Department
Mailstop KSOPHT0101-Z2020
6391 Sprint Parkway
Overland Park, Kansas 66251-2020
Attn.: Sprint Real Estate Attorney, RE: Site
#PL64XC113-A Foulk Road Water Tank*

20.4 Estoppel. Either party shall, from time to time, on not less than thirty (30) days prior written request by the other, execute, acknowledge and deliver a written statement certifying that this License is unmodified and in full force and effect, or that the License is in full force and effect as modified and listing the instruments of modification; the dates to which fees have been paid; and whether or not to the best knowledge of the party delivering the estoppel the other party is in default hereunder, and if so, specifying the nature of the default. It is intended that any such statement may be relied upon by the requesting party's prospective purchaser, mortgagee, sublicensee or assignee.

20.5 Waiver. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.

20.6 Heirs, Successors. This License shall be binding upon the parties hereto, their respective heirs, executors, administrators, successors in interest, successors in title and assigns.

21. HAZARDOUS WASTE

Licensee represents and warrants that its use of the Property will not generate and that Licensee will not store or dispose on the Property nor transport over or to the Property any hazardous substance. Licensee shall be responsible for compliance with all hazardous waste laws (including for any required clean-up) pertaining to its operation on the Property and Licensee will defend, indemnify and hold harmless Licenser from and against any and all liabilities, damages, losses, costs, assessments, penalties, fines, expenses and fees including reasonable legal fees, to the extent of Licensee's obligations to comply therewith, or breach thereof. This indemnity specifically includes reasonable costs, expenses and fees incurred by Licenser in connection with any investigation of Property conditions or clean-up, removal or restoration of the Property related to hazardous wastes of Licensee required by any governmental authority. This

Site Name: Foulk Road Water Tank

Site # PL64XC113-A

indemnification shall survive the expiration or earlier termination of this License Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be duly executed by their authorized representatives as of the date first above written.

Licensor:

Witness:

City of Wilmington, a municipal corporation
of the State of Delaware

By: _____
Name: _____
Position: _____
Date: _____

Licensee:
Sprint Spectrum, L.P., a Delaware limited
partnership

Witness:

Kathy Spesson

By: T. W. Jesson
Name: Ted W. Jesson
Position: Senior Project Manager
Date: 5-17-05

Site Name: Foulk Road Water Tank

Site # PL64XC113-A

EXHIBIT A

Legal description

Site located at 1651 Foulk Road, City of Wilmington, County of New Castle, State of Delaware, Tax Parcel #0605400013.

MAP: 11403720 PARCEL: 06-054-00-013

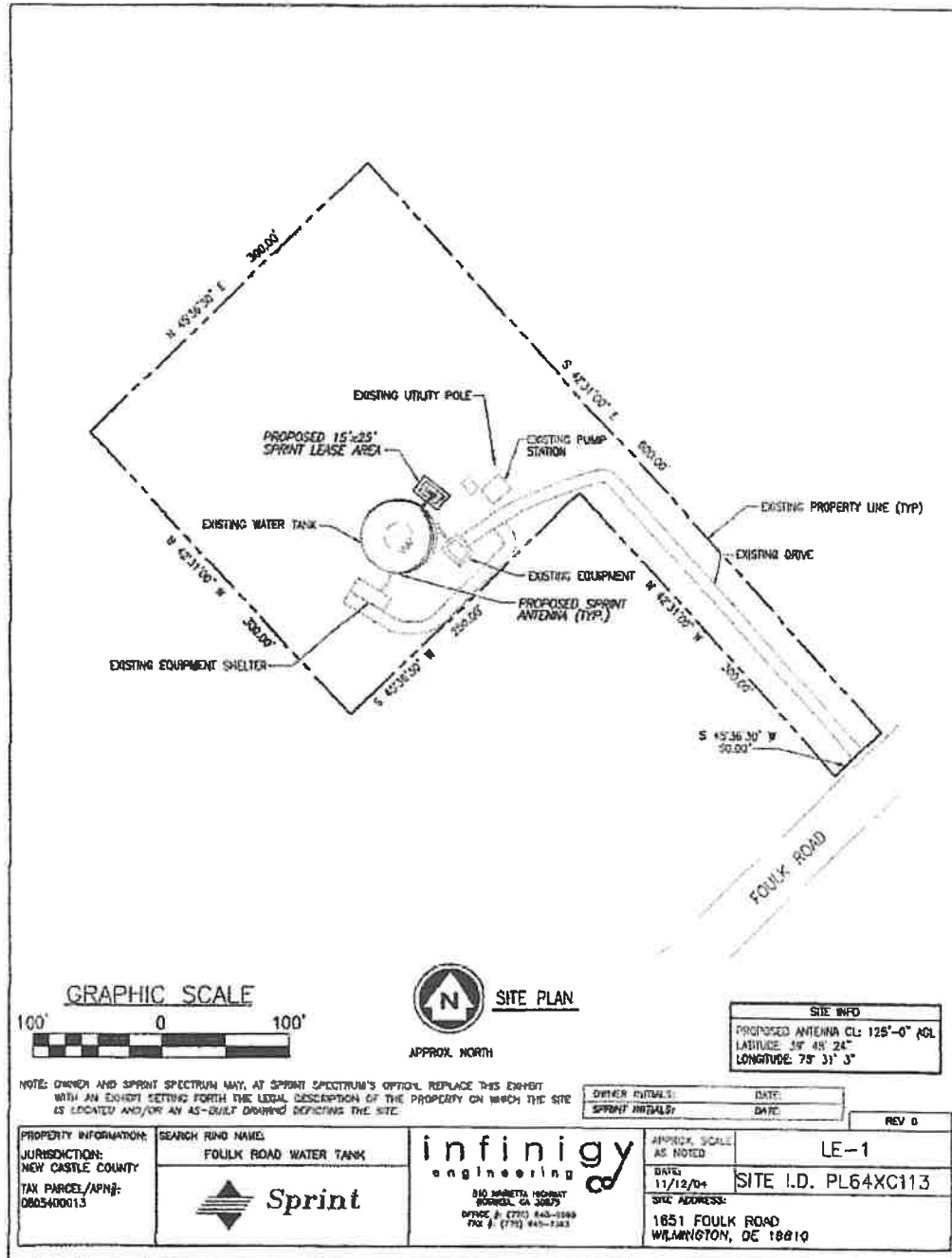
Description: BEGINNING at a point in the center line of Foulk Road, so called, distant in the center line of said Foulk Road South 45° 33' 30", West 802.90 feet from the intersection of the center line of said Foulk Road and the center line of Silverside Road, so called being also the Northeast corner of land of this Grantor; thence North 42° 31' 00", West by land of Curtis E. Talley 600.0 feet to a point in the boundary line between the said Curtis B. Talley and this Grantor; thence South 45° 36' 30" West in land of this Grantor, 300.0 feet to a point; thence South 42° 31' 00" East in land of this Grantor 300.0 feet to a point; thence North 45° 36' 30" East in land of this Grantor 250.0 feet to a point; thence South 42° 31' 00" East in land of this Grantor 300.0 feet to a point in the center line of the above named Foulk Road; thence North 45° 36' 30" East in the center line of the above names Foulk Road 50.0 feet to the point of BEGINNING.

Site Name: Foulk Road Water Tank

Site # PL64XC113-A

EXHIBIT B

Site Plan
Page 1 of 3

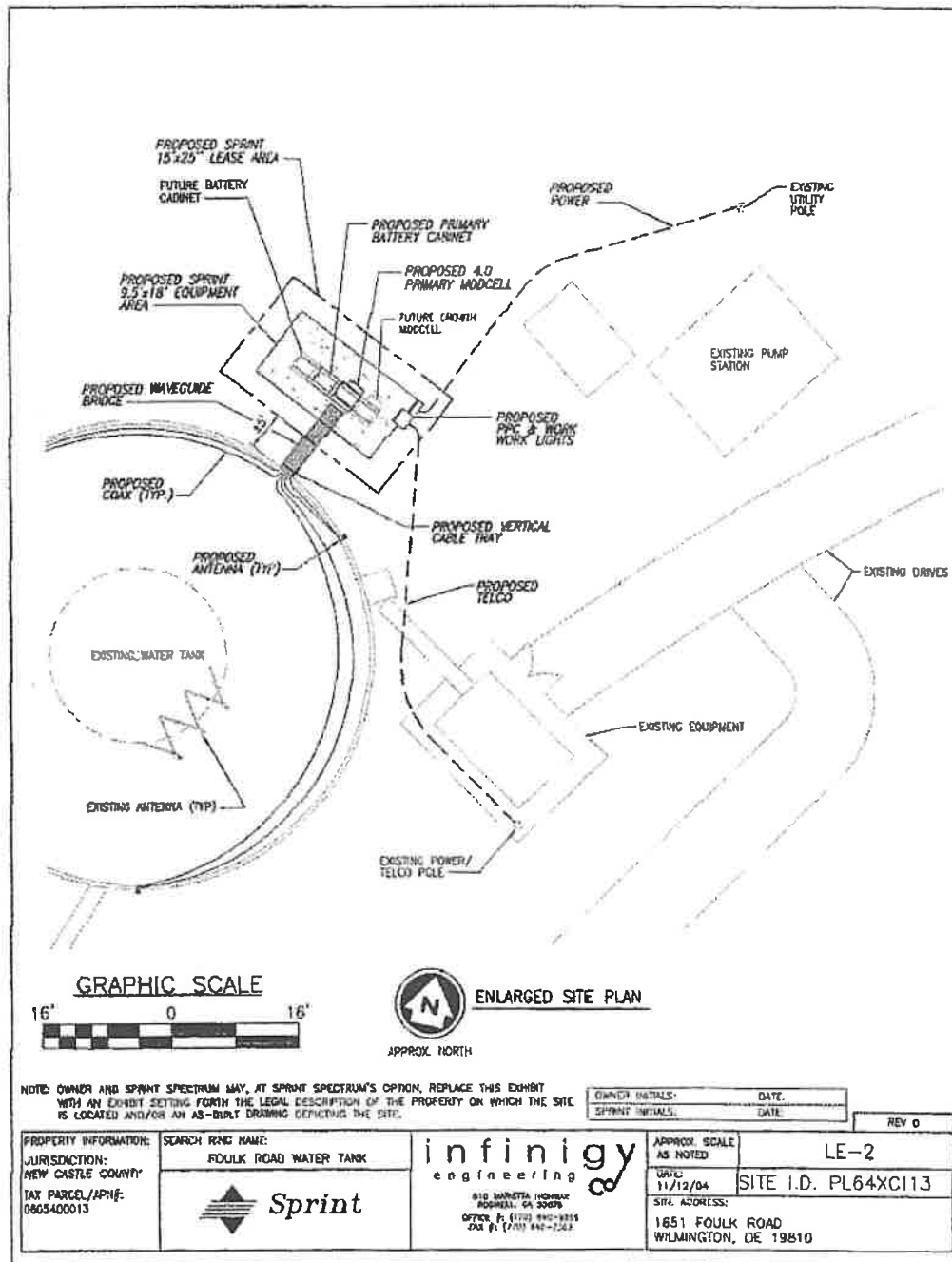


Site Name: Foulk Road Water Tank

Site # PL64XC113-A

EXHIBIT B

Site Plan
Page 2 of 3

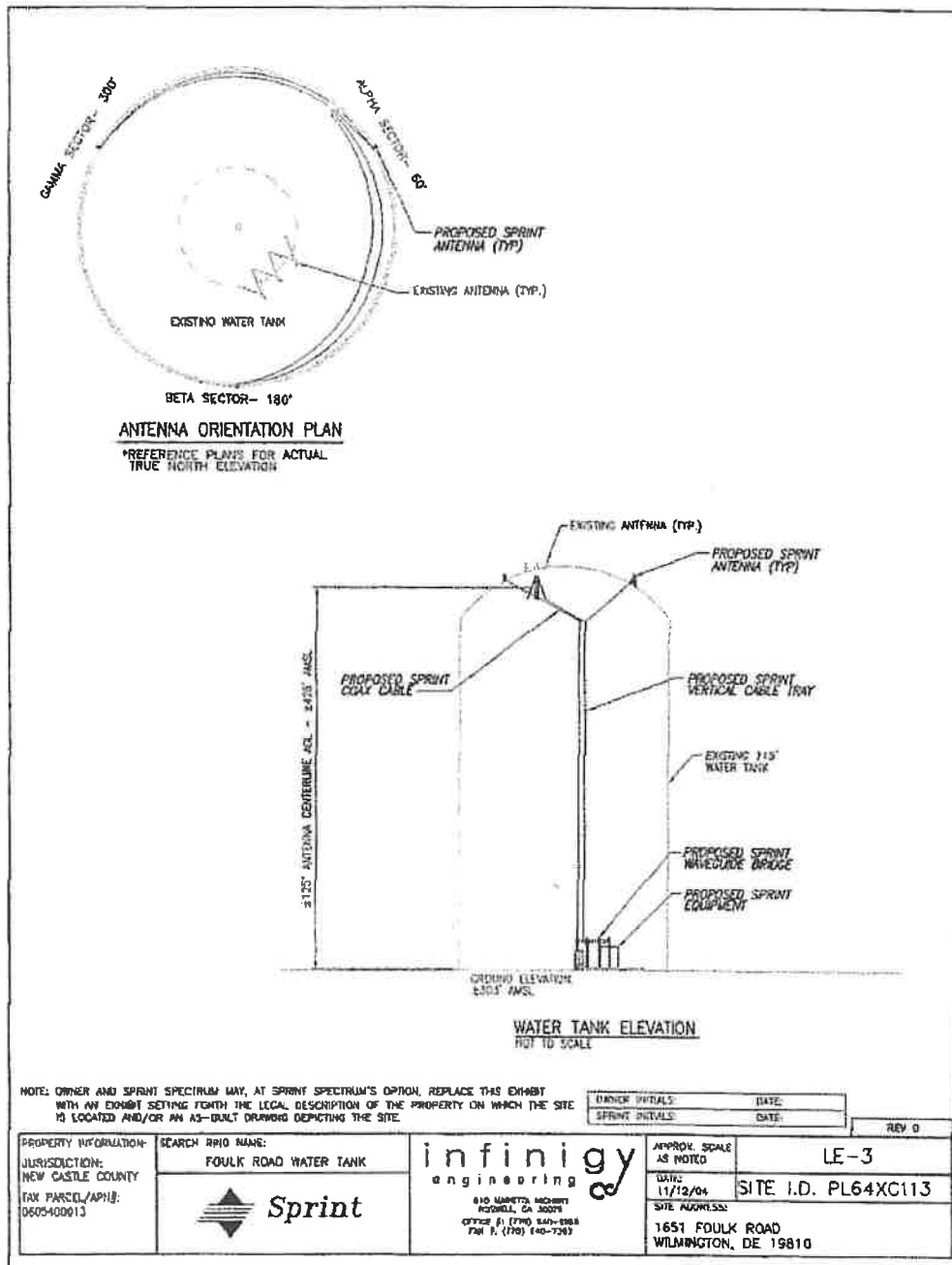


Site Name: Foulk Road Water Tank

Site # PL64XC113-A

EXHIBIT B

Site Plan
Page 3 of 3



Site Name: Foulk Road Water Tank

Site # PL64XC113-A

Exhibit C
Existing Equipment on Property

**City of Wilmington to Provide per paragraph
12 Management of Site Engineering**

Exhibit D
MEMORANDUM OF LICENSE

This Memorandum of License is entered into on this _____ by and between The City of Wilmington, a municipal corporation of the State of Delaware, with its principal place of business at 800 French Street, Wilmington, Delaware 19801 (hereinafter referred to as ("LICENSOR") and Sprint Spectrum L.P., a Delaware limited partnership (hereinafter referred to "LICENSEE")

1. Licensor is the owner in fee simple of certain real property located on or near 1651 Foulk Road, Wilmington, Delaware, sometimes referred to as Tax Parcel 06-054-00-013, as more particularly described on Exhibit A, attached hereto and made a part hereof (the "Property") upon which there is located a water tower (the "Tower") owned by Licensor, the location of which is shown on the map or site plan attached hereto and made a part hereof as Exhibit B; and

2. Licensor and Licensee entered into a License Agreement (Agreement") on the _____ for the purpose of Licensee to construct, install, operate and maintain its communications facility and other improvements. All of the foregoing is set forth in the Agreement.

3. The term of the Agreement is for five (5) years. The term shall commence on the first day of the calendar month following Licensee's receipt of the last permits, (the "Commencement Date"), and terminating on the fifth (5th) anniversary of the Commencement Date with two (2) successive five (5) year terms to renew.

IN WITNESS WHEREOF, the parties have executed this Memorandum of License as of the day and year first above written.

Licensor

THE CITY OF WILMINGTON, a municipal
corporation of the State of Delaware

Licensee

Sprint Spectrum L.P., a Delaware limited
partnership

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Site Name: Foulk Road Water Tank

Site # PL64XC113-A

Exhibit D

MEMORANDUM OF LICENSE

EXHIBIT A

Legal description

Site located at 1651 Foulk Road, City of Wilmington, County of New Castle, State of Delaware, Tax Parcel #0605400013.

MAP: 11403720 PARCEL: 06-054-00-013

Description: BEGINNING at a point in the center line of Foulk Road, so called, distant in the center line of said Foulk Road South 45° 33' 30", West 802.90 feet from the intersection of the center line of said Foulk Road and the center line of Silverside Road, so called being also the Northeast corner of land of this Grantor; thence North 42° 31' 00", West by land of Curtis E. Talley 600.0 feet to a point in the boundary line between the said Curtis B. Talley and this Grantor; thence South 45° 36' 30" West in land of this Grantor, 300.0 feet to a point; thence South 42° 31' 00" East in land of this Grantor 300.0 feet to a point; thence North 45° 36' 30" East in land of this Grantor 250.0 feet to a point; thence South 42° 31' 00" East in land of this Grantor 300.0 feet to a point in the center line of the above named Foulk Road; thence North 45° 36' 30" East in the center line of the above named Foulk Road 50.0 feet to the point of BEGINNING.

Site Name: Foulk Road Water Tank

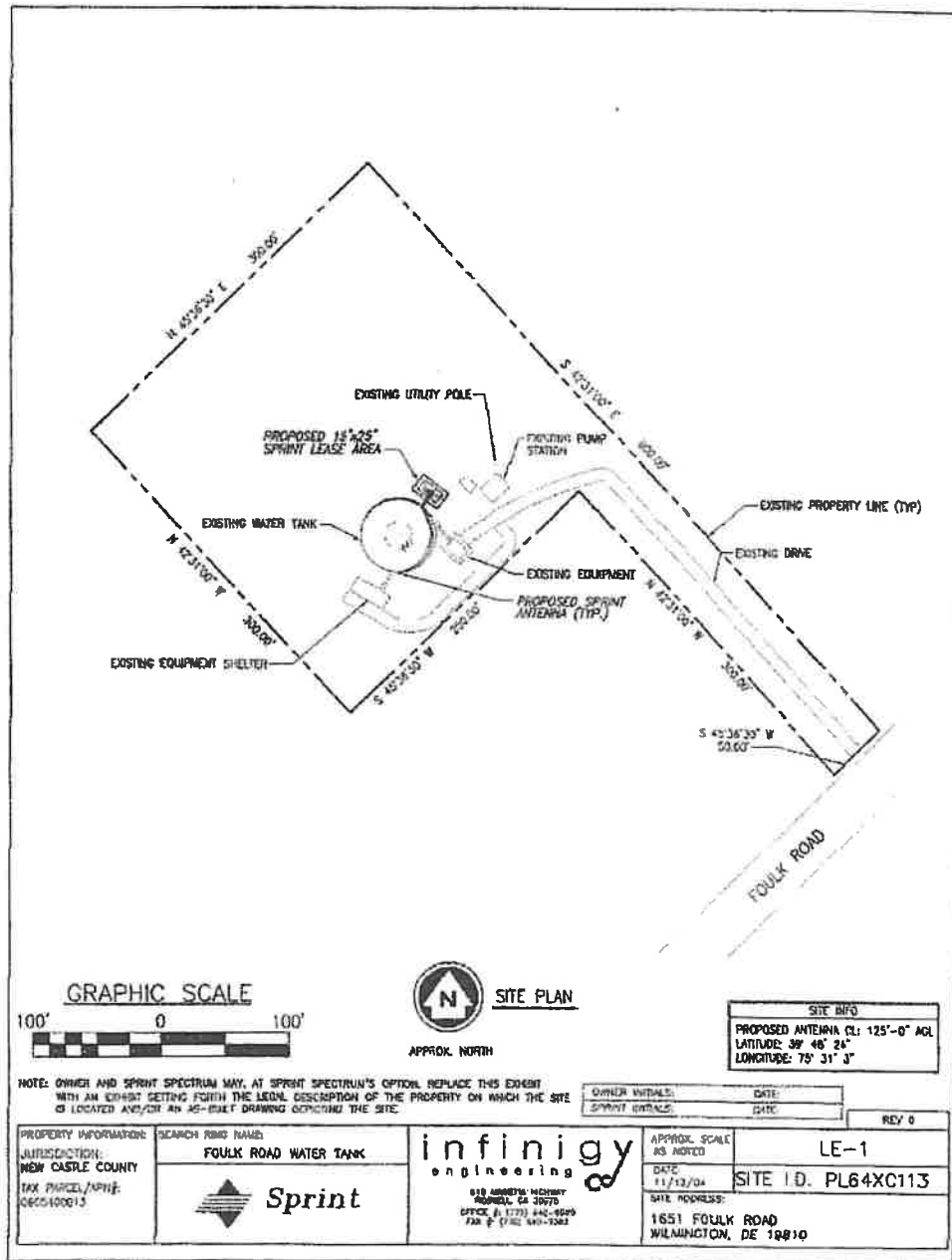
Site # PL64XC113-A

EXHIBIT D

MEMORANDUM OF LEASE

EXHIBIT A

Site Plan
Page 1 of 3

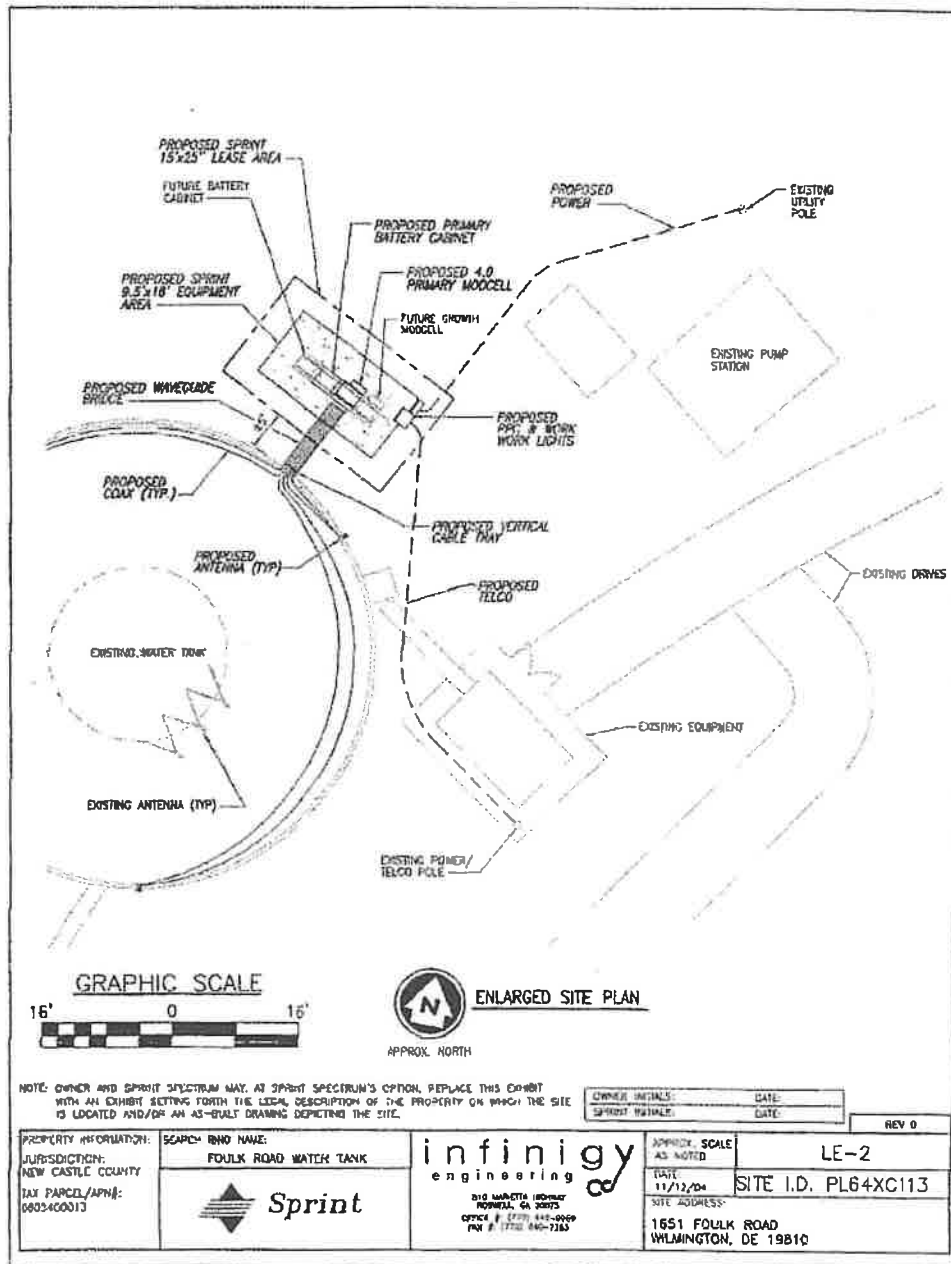


Site Name: Foulk Road Water Tank

Site # PL64XC113-A

EXHIBIT D
MEMORANDUM OF LEASE

Exhibit B
Site Plan
Page 2 of 3



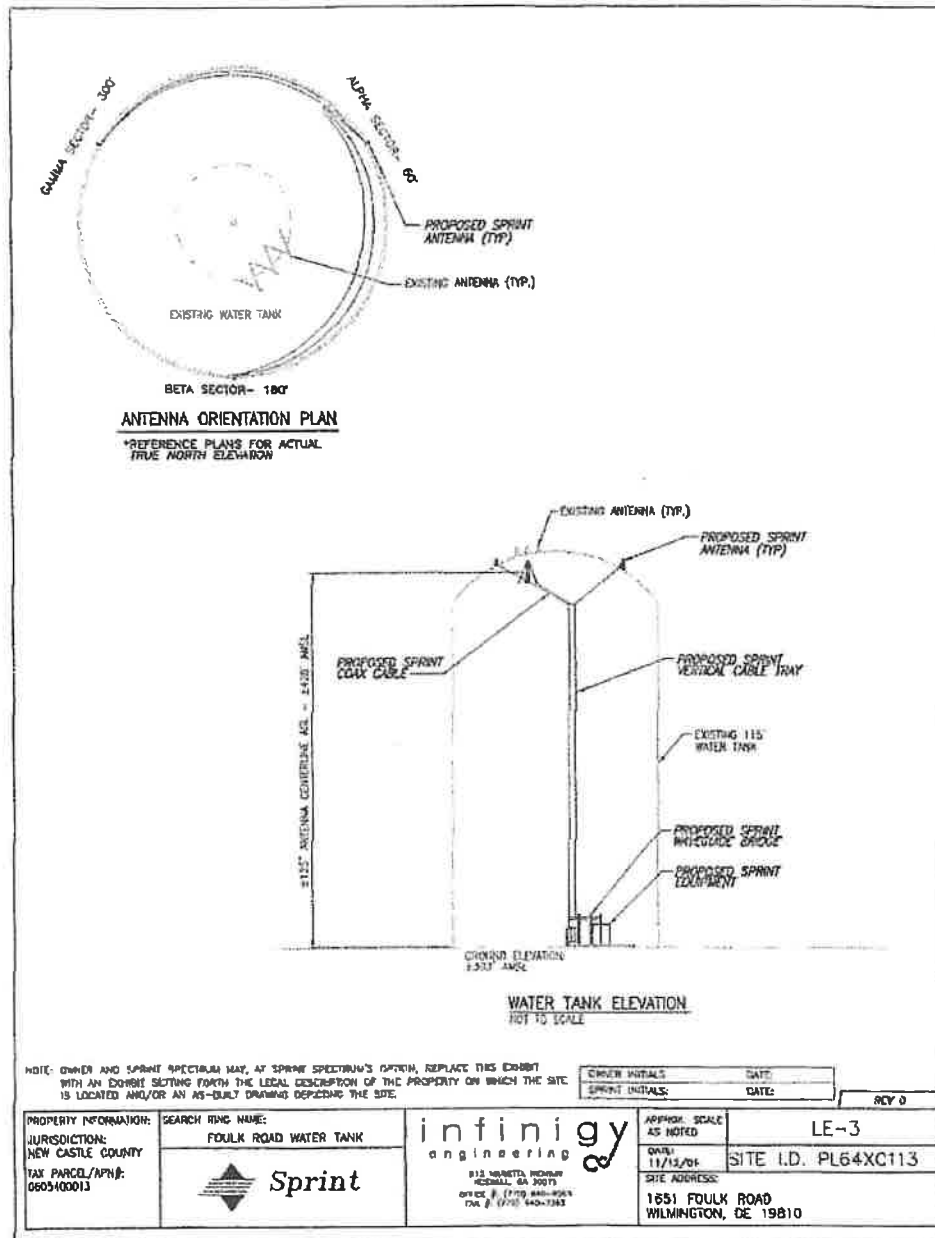
Site Name: Foulk Road Water Tank

Site # PL64XC113-A

EXHIBIT D

MEMORANDUM OF LEASE

Exhibit B
Site Plan
Page 3 of 3



Site Name: Foulk Road Water Tank

Site # PL64XC113-A

LICENSOR NOTARY BLOCK

STATE OF DELAWARE

County of _____

On _____, before me, _____,
Notary Public personally appeared _____, personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person
whose name is subscribed to the within instrument and acknowledged to me that he/she
executed the same in his/her authorized capacity, and that by his/her signature on the
instrument, the person, or the entity upon behalf of which the person acted, executed
the instrument.

WITNESS my hand and official seal

Notary Public

My commission expires: _____

(SEAL)

Site Name: Foulk Road Water Tank

Site # PL64XC113-A

LICENSEE NOTARY BLOCK:

STATE OF _____

COUNTY OF _____

On _____, before me, _____,
Notary Public, personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be
the person whose name is subscribed to the within instrument and acknowledged to me
that he/she executed the same in his/her authorized capacity, and that by his/her
signature on the instrument, the person, or the entity upon behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____

(SEAL)

RES: 05-051

Wilmington, Delaware
May 19, 2005

#2441

Sponsor:

Council
Member
Kelley

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the License Agreement between the CITY OF WILMINGTON, a municipal corporation of the State of Delaware, and SPRINT SPECTRUM, L.P., a limited partnership of the State of Delaware, to install and operate communications antennas and related equipment on and about the water tower located at or near 1651 Foulk Road, Wilmington, Delaware, a copy of which is attached hereto and made a part hereof, is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute as many copies of said License Agreement as may be necessary.

Passed by City Council,
May 19, 2005

ATTEST: Maribel Ruiz
City Clerk

Approved as to form,
May 16, 2005

Manoel P. Silva
Assistant City Solicitor

SYNOPSIS: This Resolution approves a License Agreement between the City and Sprint Spectrum, L.P. ("Sprint"), to permit Sprint to install and operate communications antennas on and a control cabinet at the base of the City's water tower located at or near 1651 Foulk Road, Wilmington, Delaware.

Sprint will pay the City a license fee in the amount of \$28,880.00 per year which will be increased by the change in the CPI. The term of the License Agreement will be for a period of five years, with two possible five-year extensions, at the option of Sprint.

Once constructed, the communications equipment will be "unmanned," except for periodic testing, adjustment, and maintenance. All installation will be subject to the reasonable approval of the City.