

RESOLUTION 15-94

BE IT RESOLVED that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and Verizon Wireless Personal Communications LP d/b/a Verizon Wireless relating to **the lease of certain space within Frank Brown Park for the installation, operation and maintenance of communications equipment, antennas, wires, cables, conduits and pipes**, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 12th day of May, 2015.

CITY OF PANAMA CITY BEACH

By: 
Gayle F. Oberst, Mayor

ATTEST:



Holly White, City Clerk

LEASE AGREEMENT

This Lease Agreement (the "Agreement") is made this _____ day of _____, 2015, between the City of Panama City Beach, Florida, a Florida municipal corporation with its principal offices located at 110 South Arnold Road, Panama City Beach, Florida 32413, hereinafter designated LESSOR and Verizon Wireless Personal Communications LP d/b/a Verizon Wireless, a Delaware limited partnership with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LESSEE. LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WITNESSETH

WHEREAS, LESSOR is the owner of certain real property, rights-of-way, buildings, utility poles, and/or other improvements and facilities, which are the subject of this Agreement and are more particularly described in Exhibit 1 attached hereto and incorporated herein by reference (collectively, the "Property"), located within the geographic area of a license to provide wireless services licensed by the Federal Communications Commission ("FCC") to LESSEE; and

WHEREAS, LESSEE desires to install, maintain and operate communications equipment in and/or upon LESSOR's Property; and

WHEREAS, LESSOR and LESSEE desire to enter into this Agreement to define the terms and conditions of a lease from LESSOR to LESSEE allowing LESSEE to install, maintain and operate communications equipment as hereinafter set forth; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. PREMISES. Pursuant to all of the terms and conditions of this Agreement, LESSOR agrees to lease to LESSEE certain space (the "Equipment Space") as more particularly described by Exhibit 1 for the installation, operation and maintenance of communications equipment; together with such additional space for the installation, operation and maintenance of antennas (the "Antenna Space") as more particularly described by Exhibit 1; together with such additional space on the Property sufficient for the installation, operation and maintenance of wires, cables, conduits and pipes, portions of which may be more particularly described by Exhibit 1 (the "Cabling Space") running between and among LESSEE's Equipment Space and Antenna Space and connecting same to all necessary electrical and telephone utility sources; together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property, to and from the Premises (as hereinafter defined) for the purpose of installation, operation and maintenance of LESSEE's communications facility. The Equipment Space, Antenna Space and Cabling Space are hereinafter collectively referred to as the "Premises". In the event there are not sufficient electric and telephone, cable or fiber utility sources located on the Property, LESSOR agrees to grant LESSEE or the local utility provider the right to install such utilities to, on, over and/or under the Property (including any improvements and/or facilities thereon) necessary for LESSEE to operate its communications facility, provided the location of such utilities shall be as reasonably designated by LESSOR and the appearance of such utilities shall be approved by LESSOR, such approval not to be unreasonably withheld,

conditioned or delayed. LESSOR shall have the right, if necessary in connection with LESSOR's development of the Property, to move or relocate the location of said utilities so long as LESSOR covers all costs associated with such relocation and so long as the relocation process is accomplished such that LESSEE will have uninterrupted access and utility service to the Property.

2. CONDITION OF PREMISES. LESSOR shall deliver the Premises to LESSEE in a condition ready for LESSEE's construction of its improvements and clean and free of debris. In the event LESSOR leases to LESSEE any space within or upon any building (a "Building"), LESSOR represents and warrants to LESSEE that as of the Effective Date and continuing through the Term (as hereinafter defined): (a) the Building (including without limitation the roof, foundations, exterior walls, interior load bearing walls, and utility systems) is (i) in good condition, structurally sound, and free of any significant leakage; and (ii) the Property and Building are in compliance with all Laws (as defined in Paragraph 23 below), including any applicable building codes, regulations, or ordinances which may exist with regard to the Building, or any part thereof; and (b) the Premises are free of all lead-based paint, asbestos or other hazardous substances, as such term may be defined under any applicable federal, state or local law. If a breach of the representations and warranties contained in this Paragraph 2 is discovered at any time during the Term of this Agreement, LESSOR shall, promptly after receipt of written notice from LESSEE setting forth a description of such non-compliance, rectify same at LESSOR's expense.

3. TERM; RENTAL. This Agreement shall be effective on the date it has been executed by both parties (the "Effective Date"); provided, however, the term hereof shall consist of a period of five (5) years commencing the first day of the month immediately following: (a) the date when LESSEE commences installation of the equipment on the Premises, or (b) the date which is sixty (60) days after the Effective Date, whichever is sooner (either, the "Commencement Date"); at which time rental payments shall commence and be due at a total annual rental of Seven Thousand Two Hundred and 00/100 Dollars (\$7,200.00), to be paid in advance annually on the Commencement Date and on each anniversary of it in advance, to LESSOR or to such other firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 17 below. LESSOR and LESSEE acknowledge and agree that the initial rental payment shall not actually be sent by LESSEE until thirty (30) days after the Commencement Date. LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date in the event that it is based upon option (a) above. Commencing on the first annual anniversary of the Commencement Date and on each annual anniversary thereafter during the term of this Agreement (including all extension terms described in Paragraph 5 below), annual rent shall increase by an amount equal to one percent (1 %) of the annual rent due for the immediately preceding lease year.

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

Upon request by LESSEE, LESSOR hereby agrees to provide to LESSEE certain documentation (the "Rental Documentation") evidencing LESSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LESSEE in LESSEE's reasonable discretion, evidencing LESSOR's good and sufficient title to and/or interest in the Premises and right to receive rental payments and other benefits under this Agreement; (ii) a completed Internal Revenue Service Form W-9, or equivalent for any Party to whom rental payments are to be made pursuant to this Agreement; and (iii) any applicable state or local withholding forms or other governmental forms or documents related to the LESSOR and its receipt of payments from LESSEE.

Within fifteen (15) days of obtaining an interest in the Premises or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in this Paragraph 3. Within thirty (30) days of a written request from LESSEE, LESSOR or any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. The Rental Documentation shall be provided to LESSEE in accordance with the provisions of and at the address given in Paragraph 17. Notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any payments until the Rental Documentation has been supplied to LESSEE as provided herein; provided, however, LESSEE shall be obligated to make all current payments if: (i) LESSOR has provided Rental Documentation to LESSEE; and, (ii) LESSOR represents in writing to LESSEE that the Rental Documentation provided is all that exists. In the event any amounts which would otherwise be due have not been paid by LESSEE due to the absence of the Rental Documentation, such amounts shall be paid to LESSOR, or any assignee(s), transferee(s) or other successor(s) in interest of LESSOR, as applicable, by LESSEE within forty-five (45) days of the delivery of the Rental Documentation to LESSEE.

4. ELECTRICAL. If permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical meter at the Premises for the measurement of electrical power used by LESSEE's installation. In the alternative, if permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical sub-meter at the Premises for the measurement of electrical power used by LESSEE's installation. In the event such sub-meter is installed, the LESSEE shall pay the utility directly for its power consumption, if billed by the utility, and if not billed by the utility, then the LESSOR shall read LESSEE's sub-meter on a monthly basis and provide LESSEE with an invoice for LESSEE's power consumption on a quarterly basis. Specifically, every three months, LESSOR shall determine LESSEE's actual electrical power consumption and resulting charges for the immediately preceding three month period based on reading of the LESSEE's sub-meter on a monthly basis and the electricity bills received by LESSOR throughout such three month period. Each invoice shall reflect charges only for LESSEE's power consumption based on the average kilowatt hour rate actually paid by LESSOR to the utility for electricity, without mark up or profit. All invoices for power consumption shall be sent by LESSOR to LESSEE at Verizon Wireless, M/S 3846, P.O. Box 2375, Spokane, WA 99210-2375, shall be provided to LESSEE within ninety (90) days following the conclusion of each three month period (the "Invoice Period"), and shall be accompanied by copies of the electricity bills received by LESSOR during the subject three month period and documentation of the sub-meter readings applicable to such three month period. If LESSOR fails to deliver an invoice to LESSEE within the Invoice Period, LESSOR waives any right to collect any electrical charges from LESSEE for the subject three month period. LESSEE shall pay each three month power consumption charge within forty-five (45) days after receipt of the invoice from LESSOR.

LESSEE shall be permitted at any time during this Agreement , to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on property owned by LESSOR in such locations as reasonably approved by LESSOR. LESSEE shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises.

5. EXTENSIONS. This Agreement shall automatically be extended for (3) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving the LESSOR written notice of non-renewal at least three (3) months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

6. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto. Prior to commencing construction on the Premises, LESSEE shall submit plans and specifications, including accurate proposed Cabling Space locations, to the LESSOR for the LESSOR's written approval, which approval shall not be unreasonably withheld, conditioned or delayed. All cabling and pull boxes shall be located underground, excepting cabling and pull boxes located within a three (3) feet radius of the poles where the communications equipment will be installed. In the event the LESSOR does not furnish the LESSEE with written approval or denial within fifteen (15) days of the date of submission of the plans, LESSOR will be deemed to have approved them. All work to be done by LESSEE shall be performed in accordance with the approved plans unless otherwise approved in writing by the LESSOR. At the request of either party, the parties will execute an amendment to supplement Exhibit 1 with the aforementioned approved plans and specifications. As part of any construction, LESSEE shall restore all disturbed areas to the condition in which they existed prior to construction, excepting normal wear and tear and casualty damage, and LESSEE shall provide an as-built drawing to LESSOR showing all underground equipment with no more than a three foot margin of error. If LESSEE fails to provide such as-built drawing or if underground equipment is located more than three feet from where it is depicted on the as-built drawing, LESSOR shall not be liable to LESSEE for any damage it causes to LESSEE's underground equipment. LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, (a) without LESSOR's consent to the extent that the size and exterior appearance is not materially changed from what is specified in Exhibit 1 to this Agreement or (b) if the size will be increased or the exterior appearance materially changed, to the extent that LESSOR provides advanced written approval, such approval not to be unreasonably withheld, delayed or conditioned. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as a satisfactory building structural analysis which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Premises with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; and (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner, LESSEE shall have the right to terminate this Agreement. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in accordance with the notice provisions set forth in Paragraph 17 and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder.

7. INDEMNIFICATION. Subject to Paragraph 8 below, the limits of liability and other rights provided by Florida Statute 768.28, and to the extent allowed by applicable law, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

8. INSURANCE. LESSOR and LESSEE each agree that at its own cost and expense, each will maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. LESSOR and LESSEE each agree that it will include the other Party as an additional insured.

9. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 7 and 21, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise. In the event that any of these types of recovery apply due to Paragraph 7, the indemnifying party's obligations hereunder shall be capped at \$25,000.00

10. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to LESSOR.

11. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. Except as provided in Paragraph 23, in no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

12. REMOVAL AT END OF TERM. LESSEE shall, within ninety (90) days after expiration of the Term or any earlier termination of this Agreement, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the antenna structure, fixtures and all personal property are completed.

13. RIGHT OF FIRST REFUSAL (COMMUNICATIONS EASEMENT). If LESSOR elects during the Term of any Supplement to grant to a third party by easement or other legal instrument an interest in and to that portion of the Building and or Property occupied by LESSEE as depicted in Exhibit 1, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of the Supplement to such third party, LESSEE shall have the right of first refusal to meet any bona fide offer of transfer on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LESSOR, LESSOR may grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer. Notwithstanding anything to the contrary, but subject to the terms of Section 11 herein, LESSOR shall not be restricted from entering into a legal agreement with other telecommunications carriers for them to install, maintain and operate communications equipment in portions of the Building or Property not occupied by LESSEE.

14. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Premises to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to the Premises occupied by LESSEE, or any portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder. In the event that LESSOR completes any such sale, transfer, or grant described in this paragraph, LESSOR shall execute an assignment of this Agreement whereby the third party agrees in writing to assume all obligations of LESSOR under this Agreement.

15. QUIET ENJOYMENT AND REPRESENTATIONS. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. LESSOR represents and warrants to LESSEE and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Premises and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Premises, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

16. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the FCC in which the Premises are located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder.

17. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: The City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413

LESSEE: Verizon Wireless Personal Communications LP
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

18. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

19. DEFAULT. In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations under it, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have fifteen (15) days in which to cure any breach, provided the breaching Party shall have such extended period as may be required beyond the fifteen (15) days if the breaching Party commences the cure within the fifteen (15) day period and thereafter continuously and diligently pursues the cure to completion. The non-breaching Party may not maintain any action or effect any remedies for default against the breaching Party unless and until the breaching Party has failed to cure the breach within the time periods provided in this Paragraph.

20. REMEDIES. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located. Further, upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. If LESSEE undertakes any such performance on LESSOR's behalf and LESSOR does not pay LESSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due, LESSEE may offset the full undisputed amount due against all fees due and owing to LESSOR under this Agreement until the full undisputed amount is fully reimbursed to LESSEE.

21. ENVIRONMENTAL.

a. LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding

to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LESSEE or is a result of activities conducted due to the existence of this Agreement; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Premises or activities conducted thereon, unless such environmental conditions are caused by LESSEE or are a result of activities conducted due to the existence of this Agreement. Nothing herein shall waive Florida Statute 768.28 and the limits of liability therein, as to any claims to which it applies.

b. LESSEE shall hold LESSOR harmless and indemnify LESSOR from and assume all duties, responsibility and liability at LESSEE's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, to the extent that such non-compliance results from activities conducted due to the existence of this Agreement or conditions caused by LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Premises or activities conducted thereon, to the extent that such environmental conditions result from activities conducted due to the existence of this Agreement are caused by LESSEE.

22. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Premises are damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

23. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Premises, any Building, Building systems, common areas of the Building, and all structural elements underlying the Premises in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises; and (b) all building codes requiring modifications to

the Premises due to the improvements being made by LESSEE in the Premises. It shall be LESSOR's obligation to comply with all Laws relating to the Premises and (if applicable) Building or other structures in general, without regard to specific use (including, without limitation, modifications required to enable LESSEE to obtain all necessary building permits).

The parties acknowledge that LESSOR's discretion regarding telecommunications facilities is impacted by federal and state law including, but not limited to, Title 47 U.S.C. § 332, Title 47 U.S.C. § 253, and Chapter 337 of the Florida Statutes, as amended from time to time. In particular, these laws require nondiscriminatory treatment of providers of telecommunications services, among other things. Subject to the terms of this Agreement, LESSOR reserves the right to enter into leases and allow services to be provided by other competing telecommunications providers, including in and around the Premises. The parties acknowledge that local governments experience significant exposure to litigation and associated costs related to a local government's decisions regarding regulation of telecommunications services. Therefore, in the event that LESSOR determines, in its reasonable discretion, that any provision of this Agreement or right granted hereunder is or has become contrary to controlling law, including controlling judicial decisions, that law shall control over this Agreement. In such event, the parties shall work in good faith to amend this Agreement to cure the actual legal noncompliance and if the parties are unable to agree to an Amendment, either party may terminate this Agreement upon ninety (90) days prior written notice to the other party. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the Agreement.

24. AUTHORIZED ENTITIES. This Agreement is entered into by the Parties each on its own behalf and for the benefit of: (i) any entity in which the Party directly or indirectly holds an equity or similar interest; (ii) any entity which directly or indirectly holds an equity or similar interest in the Party; or (iii) any entity directly or indirectly under common control with the Party. Each Party and each of the entities described above are referred to herein as an "Authorized Entity". No obligation is incurred or liability accepted by any Authorized Entity until that Authorized Entity is designated in a writing from one party to the other party.

25. MISCELLANEOUS. This Agreement contains all agreements, promises and understandings between the LESSOR and the LESSEE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the LESSOR or the LESSEE in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement shall be governed interpreted, construed and regulated by the laws of the state in which the Premises are located without reference to its choice of law rules.

26. USE OF PUBLIC RIGHTS-OF-WAY.

a. LESSOR hereby grants to LESSEE the right to use the municipal public right-of-way for access to the Premises. The parties acknowledge the LESSOR has enacted ordinances and land development code, both which may be amended from time to time, that govern the use of the public right-of-way, as well as the installation, maintenance and operation of telecommunications and other utilities in the public right-of-way. Notwithstanding anything herein to the contrary, in no event

shall LESSEE be obligated to pay LESSOR any rent or other fee for the uses of the Premises during the Term, except as set forth herein.

b. All communications equipment shall be installed in accordance with applicable Laws and LESSEE shall comply with all laws, ordinances, rules and regulations adopted by LESSOR. Within the public rights-of-way, the location of the communications equipment shall be subject to the reasonable and proper regulation, direction and control of the LESSOR or the official to whom such duties have been delegated by LESSOR.

c. LESSEE and its contractors shall give LESSOR reasonable notice of the dates, location, and nature of all work to be performed on its communications equipment within the public rights-of-way. To the extent it occurs within the Premises or Property, this Agreement shall allow LESSEE to perform all work on LESSEE's communications equipment within the public rights-of-way and to park vehicles in the streets and other public rights-of-way when necessary for the installation, replacement, abandonment, operation or maintenance of LESSEE's communications equipment. LESSEE and contractors performing work for LESSEE shall not be required to pay any fee in order to perform work within the Premises or Property on LESSEE's communications equipment, or park within the streets and other public rights-of-way that are located within the Property. Following completion of work in the public rights-of-way, LESSEE shall repair any affected public rights-of-way as soon as possible, but no later than the time frame established by the permit issued by the LESSOR. No street, alley, highway or public place shall be encumbered for a longer period than shall be necessary to execute the work authorized by this Agreement. Notwithstanding anything in this Agreement to the contrary, LESSEE specifically reserves all rights to which it may be entitled under Section 337.401 of the Florida Statutes with respect to use of public rights-of-way and does not waive the right to enforce said Section 337.401 or any portion thereof with respect to any public rights-of-way located within LESSOR's jurisdiction. As such, in the event that LESSEE desires to use a municipal public right-of-way for placement of communications equipment and is entitled to do so by statute, no amendment to this Agreement shall be required for such placement of communications equipment in accordance with Section 337.401(3)(a). In such event, LESSEE and LESSOR shall abide by all provisions of Section 337.401, including, without limitation, the registration requirements set forth in Section 337.401(3)(a).

27. TRANSFER OF IMPROVEMENTS.

a. The parties acknowledge that as part of LESSEE's installations under this Agreement, LESSEE may construct, at LESSEE's expense, certain improvements on LESSOR's Property ("Improvements"). LESSOR hereby grants to LESSEE a temporary, exclusive license to use the LESSOR's Property (the "Construction License") to construct, install, operate and repair the Improvements together with the equipment described with specificity in Exhibit 1 attached to the Agreement (the "Equipment") at the location of the Improvements. Upon completion of construction of the Improvements the Construction License shall terminate.

b. Upon termination of this Agreement, LESSEE shall convey ownership of the Improvements to the LESSOR "AS IS" and without any warranty or representation regarding the suitability of the Improvements for any particular purpose or use. Such conveyance shall occur through the execution by the parties of a Bill of Sale in the form attached hereto as Exhibit 3 and incorporated herein. In addition to the other rights granted in this Agreement, LESSOR grants LESSEE the exclusive right to install and maintain communications facilities on the Improvements. The Improvements to be

transferred to the LESSOR will be identified in Exhibit 2 attached to this Agreement and incorporated herein.

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

LESSOR:

The City of Panama City Beach, Florida

By: _____

Its: _____

Date: _____

WITNESSES:

Print Name

Print Name

LESSEE:

**Verizon Wireless Personal Communications LP
d/b/a Verizon Wireless**

By: Aparna Khurjekar

Its: Area Vice President Network

Date: _____

WITNESSES:

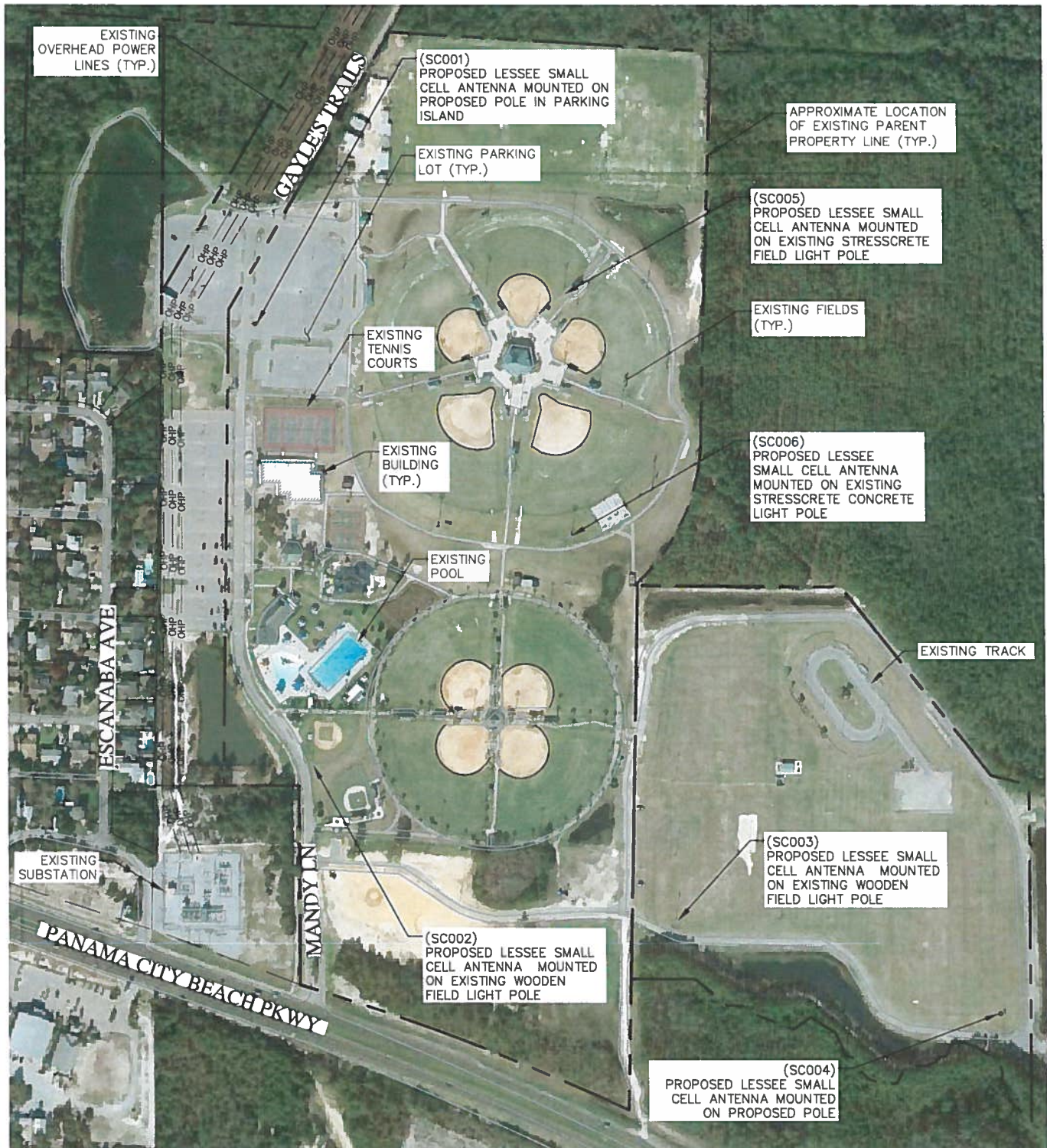
Print Name

Print Name

EXHIBIT 1

DESCRIPTION OF PROPERTY AND PREMISES

**SITE PLAN OF ROOFTOP SPACE, FLOOR SPACE
ANTENNA SPACE AND CABLING SPACE**



EXISTING OVERHEAD POWER LINES (TYP.)

(SC001) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON PROPOSED POLE IN PARKING ISLAND

APPROXIMATE LOCATION OF EXISTING PARENT PROPERTY LINE (TYP.)

EXISTING PARKING LOT (TYP.)

(SC005) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON EXISTING STRESSCRETE FIELD LIGHT POLE

EXISTING TENNIS COURTS

EXISTING FIELDS (TYP.)

EXISTING BUILDING (TYP.)

(SC006) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON EXISTING STRESSCRETE CONCRETE LIGHT POLE

EXISTING POOL

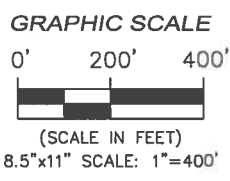
EXISTING TRACK

EXISTING SUBSTATION

(SC003) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON EXISTING WOODEN FIELD LIGHT POLE

(SC002) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON EXISTING WOODEN FIELD LIGHT POLE

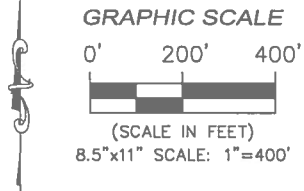
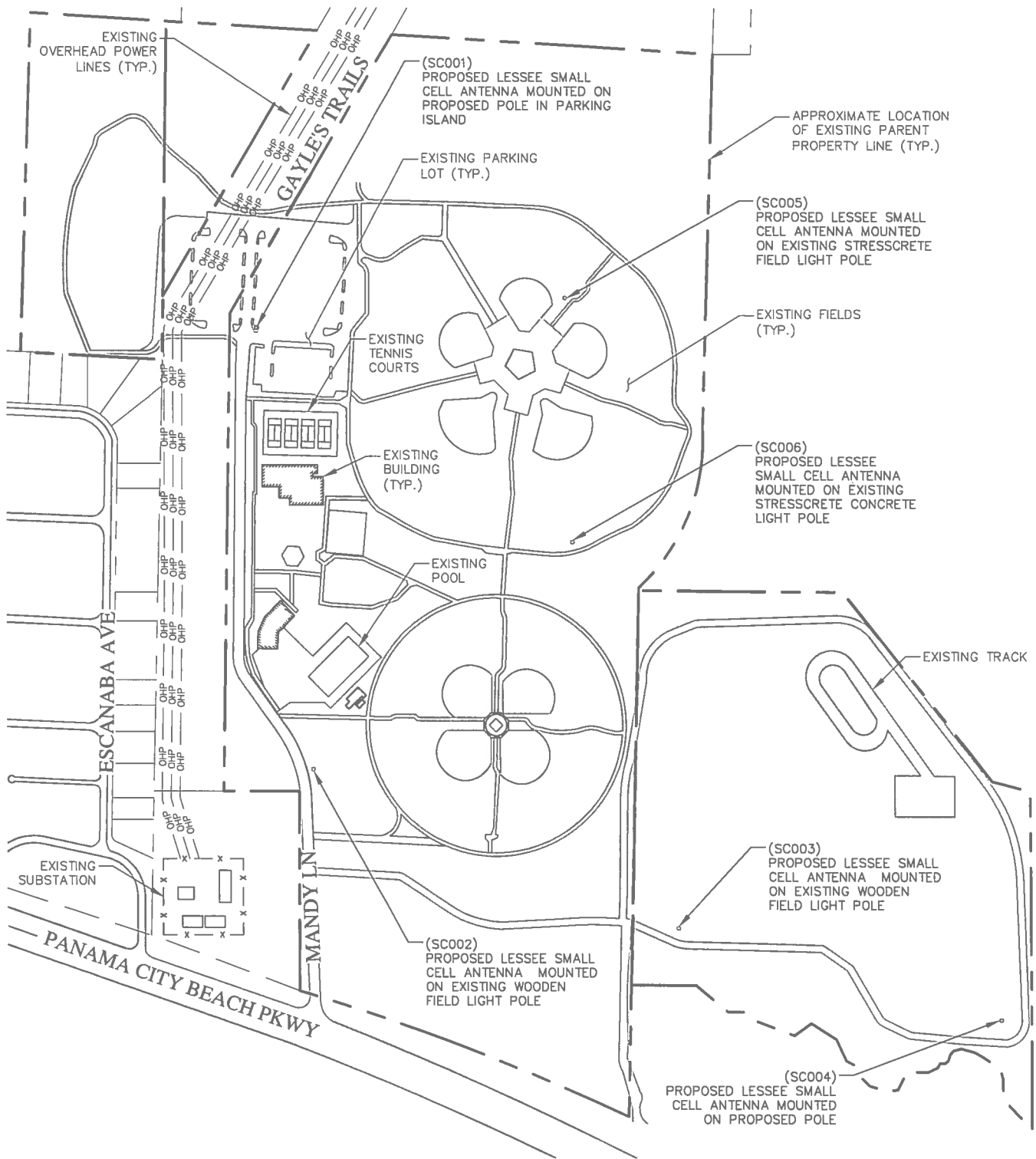
(SC004) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON PROPOSED POLE



OVERALL AERIAL SITE PLAN

LESSEE SITE NAME/NUMBER
 FRANK BROWN PARK HUB / #105654
 16200 PANAMA CITY BEACH PARKWAY
 PANAMA CITY BEACH, FLORIDA 32413

VERIZON WIRELESS IS REFERRED TO IN THIS EXHIBIT AS LESSEE



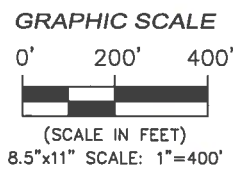
OVERALL SITE PLAN

LESSEE SITE NAME/NUMBER
 FRANK BROWN PARK HUB / #105654
 16200 PANAMA CITY BEACH PARKWAY
 PANAMA CITY BEACH, FLORIDA 32413

VERIZON WIRELESS IS REFERRED TO IN THIS EXHIBIT AS LESSEE

EXHIBIT 2

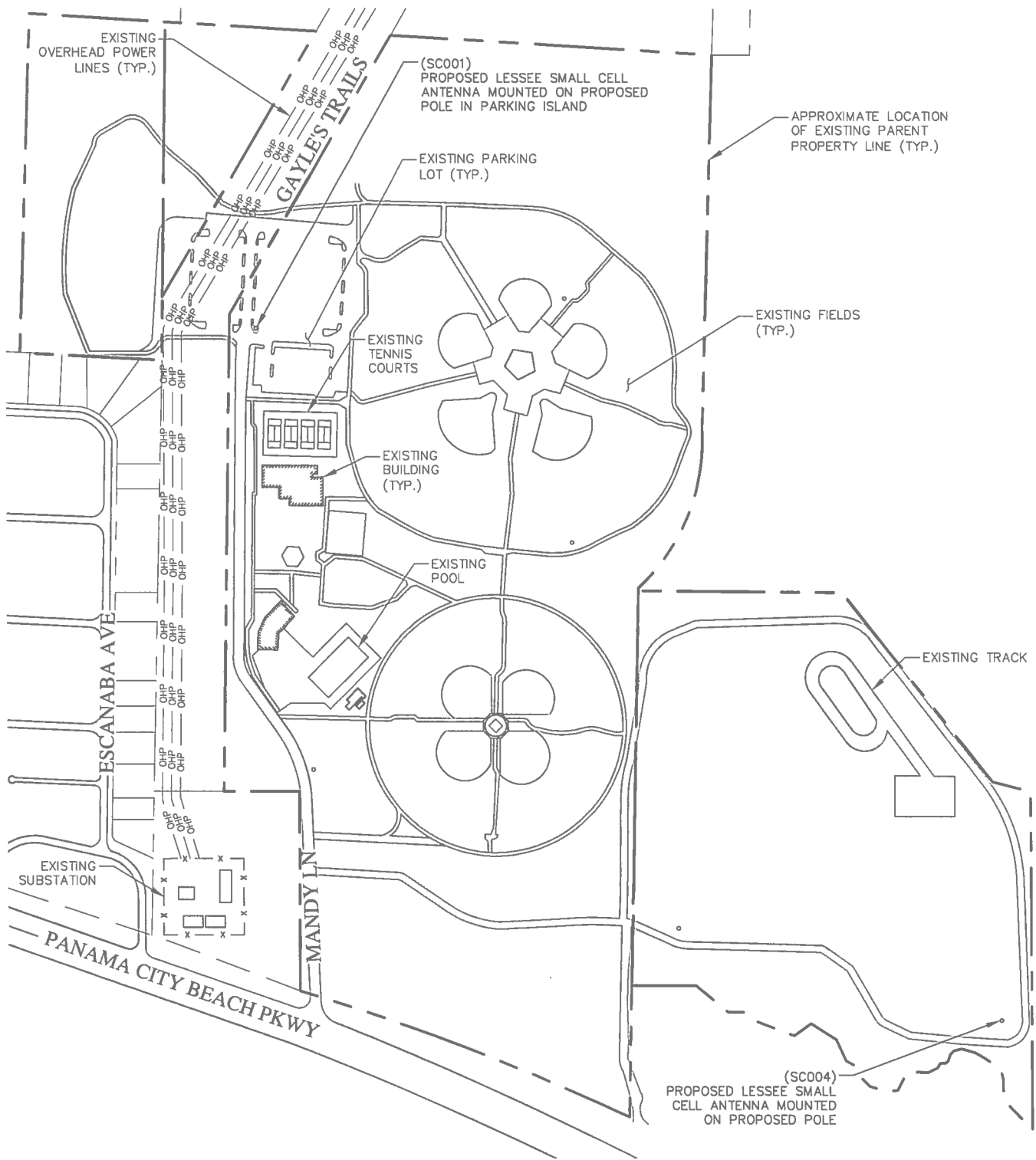
IMPROVEMENTS TO BE CONVEYED TO LESSOR



OVERALL AERIAL SITE PLAN

LESSEE SITE NAME/NUMBER
FRANK BROWN PARK HUB / #105654
16200 PANAMA CITY BEACH PARKWAY
PANAMA CITY BEACH, FLORIDA 32413

VERIZON WIRELESS IS REFERRED TO IN THIS EXHIBIT AS LESSEE



EXISTING OVERHEAD POWER LINES (TYP.)

GAYLE'S TRAILS

(SC001) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON PROPOSED POLE IN PARKING ISLAND

EXISTING PARKING LOT (TYP.)

APPROXIMATE LOCATION OF EXISTING PARENT PROPERTY LINE (TYP.)

EXISTING TENNIS COURTS

EXISTING FIELDS (TYP.)

EXISTING BUILDING (TYP.)

EXISTING POOL

ESCANABA AVE

EXISTING TRACK

EXISTING SUBSTATION

MANDY LN

PANAMA CITY BEACH PKWY

(SC004) PROPOSED LESSEE SMALL CELL ANTENNA MOUNTED ON PROPOSED POLE



GRAPHIC SCALE
 0' 200' 400'
 (SCALE IN FEET)
 8.5"x11" SCALE: 1"=400'

OVERALL SITE PLAN

LESSEE SITE NAME/NUMBER
 FRANK BROWN PARK HUB / #105654
 16200 PANAMA CITY BEACH PARKWAY
 PANAMA CITY BEACH, FLORIDA 32413

VERIZON WIRELESS IS REFERRED TO IN THIS EXHIBIT AS LESSEE

LESSEE Site I.D.: Frank Brown Park, Site No. 105654

EXHIBIT 3
FORM BILL OF SALE

[See attached]

BILL OF SALE

THAT, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Verizon Wireless Personal Communications LP d/b/a Verizon Wireless, a Delaware limited partnership ("Seller"), hereby sells, transfers, conveys, assigns and delivers to the City of Panama City Beach, Florida ("Buyer"), to have and to hold for its own use and benefit forever, and Buyer hereby purchases, accepts and acquires from Seller, all of Seller's right, title and interest in the furniture, fixtures, and equipment listed in Exhibit A (together, the "Personal Property") which is, as of the date hereof, located at _____ (the "Premises"). The Premises was previously leased by Seller pursuant to that certain _____ dated _____ (the "Lease")..

Buyer acknowledges and agrees that notwithstanding anything in the Lease to the contrary, including, without limitation, any obligation on the part of Seller to remove the Personal Property from the Premises and restore the Premises to its original condition upon the expiration or termination of the Lease, Buyer and Seller have agreed that the Personal Property shall remain at the Premises. Accordingly, Seller shall have no obligation to remove the Personal Property or otherwise restore the areas of the Premises within which the Personal Property is located. Buyer hereby accepts the Seller's surrender of the Personal Property in the condition as it exists as of the date hereof.

As of the date hereof, Seller warrants to Buyer that (i) Seller is the owner of the full legal and beneficial title to the Personal Property, (ii) Seller has the good and lawful right to sell the Personal Property, and (iii) that good and marketable title to the Personal Property is hereby vested in Buyer. To the extent allowed by law, this is the only warranty that Seller makes with respect to the Personal Property.

Buyer acknowledges that the Personal Property (including associated supplies) may be regulated under laws relating to the protection of human health and the environment. Buyer further acknowledges that it is the Buyer's responsibility to comply with all applicable government requirements and to take all steps necessary to protect its employees and others who may be exposed to the regulated components of the Personal Property. Buyer acknowledges that the Personal Property may be regulated for many reasons including, but not limited to:

- (a) The Personal Property may have associated registration, permit, license, certification, reporting, closure, notification and/or other requirements in order to maintain, operate, service, remove, relocate, remove and/or dispose of the Personal Property;

- (b) The Personal Property may contain or operate with chemicals or components that contain materials or substances that are deemed toxic and/or hazardous under a Federal, State or local law and which may have the potential to cause injury to employees and/or the environment;
- (c) The Personal Property may have the potential for causing harm if operated or maintained improperly or without taking appropriate safety precautions; and/or
- (d) The Personal Property may also be subject to other regulatory requirements.

It is Buyer's responsibility to determine any and all regulatory requirements associated with the Personal Property and to comply with any and all such requirements.

If any of the regulated Personal Property requires permits, registrations or other notifications and/or actions by or to the government (collectively, "Regulatory Requirements"), then Buyer agrees that it shall, within the time period allowed by law but in any case not more than thirty (30) days, file any and all documentation (and pay any fees) necessary to meet the applicable Regulatory Requirements and this shall include all actions necessary to assure that Buyer, and not Seller, is named as the owner of and person responsible for such Personal Property. Buyer hereby accepts the assignment of any Regulatory Requirements related to the Personal Property as of the date hereof or as soon after the date hereof as is permitted by the applicable governmental regulations and laws. In the event that the assignment of the Regulatory Requirements to Buyer does not become effective as of the date hereof, Buyer shall indemnify and hold harmless Seller and its parent, affiliate and subsidiary companies from any liability relating to the Regulatory Requirements from and after the date hereof, including, without limitation, any penalties for non-compliance with the Regulatory Requirements.

The Personal Property is not new, and Buyer acknowledges and agrees that Seller and Seller's employees, agents and representatives have not made any express or implied representations, statements, or inducements about the condition of the Personal Property or the uses or operation thereof. Without limiting the foregoing, Seller shall not be liable for or be bound by any oral or written statements or representations pertaining to the condition or use of the Personal Property, or any other information respecting same furnished by Seller or any employee, agent or representative of Seller or other person purportedly representing Seller. Buyer has had the opportunity to independently examine the Personal Property and to satisfy itself of the condition of the Personal Property. Buyer

hereby accepts the Personal Property "AS IS" and at its own risk. From and after the date hereof, Buyer agrees to indemnify and hold Seller and its parent, affiliate and subsidiary companies harmless from any and all liability in connection with the transfer, ownership, operation, maintenance and all use of the Personal Property, including, but not limited to, claims arising out of the compliance status of the Personal Property, exposures to hazardous substances and the ultimate disposal of the Personal Property. Except as may be required by law and the above warranty with respect to title, **SELLER DISCLAIMS ALL WARRANTIES FOR THE PERSONAL PROPERTY WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES THAT THE PERSONAL PROPERTY IS MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE.**

This Bill of Sale shall inure to the benefit of Buyer, its successors and assigns.

IN WITNESS WHEREOF, the parties have caused this Bill of Sale to be executed and delivered this _____ day of _____, 20__.

SELLER:

BUYER:

Verizon Wireless Personal Communications LP
d/b/a Verizon Wireless

The City of Panama City Beach, Florida

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A

THE PERSONAL PROPERTY