

Sample Only

City of Redmond, WA Facilities Lease for Telecommunications Facilities

THIS LEASE is entered into by and between Sprint Spectrum, L.P., (hereinafter "Sprint") and the City of Redmond (hereinafter "the City" or "Redmond"), pursuant to Chapter 12.14 of the Redmond Municipal Code (the RMC) and for the mutual benefits to be derived. The purpose of this lease is to give Sprint a non-exclusive right to operate a personal communications service (hereinafter "PCS") antenna installation on the City's water tank located at 18609 NE 65th Street in Redmond, including rights of way for utilities and access, as described more fully below. References to Sprint shall include Sprint's agents, officers, employees, successors and assigns, unless otherwise noted; references to the City shall likewise include the City's elected and appointed officials, agents, officers, employees, successors and assigns, unless otherwise noted. The parties hereby agree as follows:

Section 1. Description of the Project. A set of plans is attached to this lease as Exhibit A. The following is a written description of these plans. If there is a conflict between the two, the plans should control.

To provide PCS service to the area around the water tank, Sprint will install up to twelve panel-style antennas on the top of the water tank in three groups with four antennas in each group (each group of antennas is also called a "sector" of antennas). The panel antennas will be approximately five feet tall, six inches wide, and three inches thick. The panel antennas will be mounted on frames which will hold each antenna approximately five feet five inches above the roof of the water tank. One of the antenna mounts will also support a small (2" diameter, 4" tall) receive-only GPS (global positioning system) antenna. The GPS antenna will provide the site with the extremely accurate time information which these sites require. The antenna mounts will be attached to the tank with a mounting system approved by the City. All work for the site will be done with the City's prior approval and consent.

The panel antennas will be attached to signal processing equipment with heavy duty coaxial cable. The coaxial cable will run from each sector, across the roof of the water tank to a common collection point on the same side of the tank as the signal processing equipment. From there, the coaxial cable will travel down the side of the tank inside of an enclosed cable tray which will be painted to match the tank. The cable will travel underground, beneath the tank's perimeter driveway, to the signal processing equipment.

The signal processing equipment will sit on a 7'-2" by 16'-4" concrete slab in the south-east corner of the water tank property. The equipment will consist of four cabinets which are each approximately 30" by 30" by 5'-9" tall. On the cement pad there will also be a power and telephone demarcation cabinet which is approximately 1' by 5' by 5'-9" tall. The coaxial cable will come up through the cement pad and will enter one of the cabinets.

The site will be connected to utilities through a shallow trench dug to the north-east corner of the property. The site has two hours of internal backup battery power. To provide emergency backup power during outages which last longer than two hours, a generator will sit on a 3' by 5' cement pad adjacent to the first pad. The extremely intermittent noise produced by the generator will be kept at or below 50 dBA at neighboring lot lines, per City code, by an engineered noise baffle placed around the generator.

To secure the equipment from unlawful access, the site will sit behind the existing barbed-wire fence which rings the tank's perimeter driveway. Matching fence will be extended around the back of the equipment. Additionally, a wood fence will surround all four sides of the equipment, to further reduce the noise from the site's generator. The equipment area, exterior to the fence, will be landscaped to blend with the site's existing landscaping.

After construction is completed, a Sprint technician will visit the site approximately once a month to perform routine maintenance. Notification for maintenance visits is addressed below. Sprint may, at its expense, make improvements on the site from time to time with prior approval of the City, which approval will not be unreasonably withheld or delayed. Upon termination or expiration of this lease, Sprint may remove its telecommunications equipment and will restore the property to substantially the condition existing on the Commencement date, except for ordinary wear and tear.

Section 2. Legal Description. The south three-quarters of the northeast quarter of the southwest quarter lying easterly of County road; together with the 550 feet of the south three-fourths of the northwest quarter of the southeast quarter; together with the west 550 feet of the north 200 feet of the southwest quarter of the southeast quarter and the east 660 feet of the north 200 feet of the southeast quarter of the southwest quarter, all in Section 7, Township 25 North, Range 6 East W.M., in King County, Washington: except portion lying within County road; and except a parcel of land lying within the southeast quarter of the southwest quarter of Section 7, Township 25 North, Range 6 East W.M., in King County, Washington, and being more particularly described as follows: Beginning at the southwest corner of the Cadman Gravel Company binding site plan, according to the plat thereof recorded in Volume 130 of Plats, pages 97 through 100, inclusive, in King County, Washington; thence North 00 17' 43" East 167.03 feet to the southerly right-of-way line of James Campbell Road, as surveyed under survey No. 2712, Volume 396A, records of said county; thence south 89 14' 17" east 49.12 feet along said right-of-way line to a point of curvature; thence along said curve having a radius length of 316.48 feet, a central angle of 31 06' 38" to the left an arc distance of 171.84 feet; thence leaving said southerly right-of-way line south 00 17' 43" west 45.52 feet; thence continuing south 00 17' 43" west 167.07 feet to the south line of said binding plan; thence north 89 13' 43" west 213.01 feet along said south line to the point of beginning; situated in the County of King, State of Washington.

Section 3. Nonexclusive lease. This lease is nonexclusive and does not preclude the City from granting a similar lease, right, license, franchise, etc., to other carriers or other persons for telecommunications or any other purpose.

Section 4. Term. The term of this lease is for one year, beginning on the commencement date and renewed as described in Section 6, below. The commencement date will be the date when

the City issues a building permit or the date when Sprint accepts this lease, whichever comes later.

Section 5. Acceptance. Within 30 days after the City approves this lease Sprint shall file with the Mayor or the following designee an unconditional written acceptance of the lease in a form satisfactory to the City Attorney, together with the bonds, insurance policies, and other funds which may be required by this lease.

Designee: _____ Address: _____

Section 6. Renewal. Unless the City gives written notice to Sprint that a renewal application will be required, such notice being received at least 60 days prior to the end of this lease's then relevant term, renewal will be deemed to have occurred automatically without action by either party.

Section 7. Renewal Application. If, at least 60 days prior to expiration of this lease, the City gives written notice to Sprint that a renewal application will be required at least 30 days before expiration of this lease, , Sprint shall file an application with the City for renewal of this Lease which shall include the following:

- A. The information required pursuant to Section 12.14.0500 of the RMC ;
- B. Any information required pursuant to the Facilities Lease agreement between the City and Sprint;
- C. All deposits or charges required pursuant to Chapter 12.14 of the RMC; and
- D. The fee required for filing a lease application for the location of telecommunications facilities on City property.

Section 8. Renewal Determination. Recognizing that the City is under no obligation to grant a renewal of this lease for the use of City property, the City shall strive to consider and take action on applications for renewal of this lease within 30 days after receiving a complete application for such a lease renewal. When such action is taken the City shall issue a written determination granting or denying the lease renewal in whole or in part, applying the standards set in RMC Sections 12.14.0620 and 12.14.0630, as said Sections presently exist or are hereafter amended, or any other such criteria as the City Council may choose to apply.

Section 9. Interference. The City has previously entered into leases with other tenants for their equipment and antennae facilities. Sprint acknowledges that the City is also leasing the City property for the purposes of transmitting and receiving telecommunication signals from the City property. The City, however, is not in any way responsible or liable for any interference with Sprint's use of the City property which may be caused by the use and operation of any other tenant's equipment, even if caused by new technology. In the event that any other tenant's activities interfere with Sprint's use of the City property, and Sprint cannot work out this interference with the other tenants, Sprint may, upon 30 days notice to the City, terminate this lease and restore the City property to its original condition, reasonable wear and tear excepted. Sprint shall cooperate with all other tenants to identify the causes of and work towards the resolution of any electronic interference problem. In addition, Sprint agrees to eliminate any

radio or television interference caused to City-owned facilities or surrounding residences at Sprint's own expense and without installation of extra filters on City-owned equipment. Sprint further agrees to accept such interference as may be received from City operated telecommunications or other facilities located upon the City property subject to this lease.

Section 10. Ownership and Removal of Improvements. All buildings, landscaping, and all other improvements, except telecommunications equipment, shall become the property of the City upon expiration or termination of this lease. In the event that the City requires removal of such improvements upon expiration or earlier termination of this lease, such removal shall be accomplished at Sprint's sole expense and shall be completed within 30 days after receiving notice from the City requiring removal of the improvements. In the event that telecommunications facilities or other equipment are left upon City property after expiration or termination of the lease, they shall become the property of the City if not removed by Sprint upon 30 days written notice from the City.

Section 11. Cancellation by Sprint.

A. This lease is contingent upon Sprint obtaining all necessary permits, approvals, and licenses for the proposed facility. In the event that Sprint is unable to obtain all such permits, approvals, and licenses, it may cancel this lease and obtain a pro rata refund in any rents paid, without further obligation, by giving 30 days prior written notice to the City.

B. In the event that Sprint determines that the property is unsuitable for any reason, Sprint shall have the right to cancel the lease upon 120 days written notice to the City. However, no prepaid rent shall be refunded.

Section 12. Compensation to the City. A. Rent for this lease shall be \$10,000 per year, except as modified below.

B. After the first year, the annual rental charges shall be increased by not less than 4% or the CPI-Urban for the Seattle/Tacoma area whichever is the greater, unless a different fee is negotiated.

C. In the first term of this lease rent shall be paid within thirty (30) days after the "commencement date" of the lease. Rent for each term after the first shall be paid each year within thirty (30) days of the anniversary of the "commencement date" of the lease. The commencement date will be the date when the City issued a building permit or the date when Sprint accepted this lease, whichever came later. Any payments received more than thirty (30) days after the commencement date or the anniversary thereof, shall include a late payment penalty of 2% of the annual rental fee for each day or part thereof the payment is delinquent.

Section 13. Police Power. In accepting this lease, Sprint acknowledges that its right hereunder are subject to the legitimate rights of the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the public and it agrees to comply with all applicable and enforceable general laws enacted by the City pursuant to such power.

Section 14. Rules and Regulations by the City. In addition to the inherent powers of the City to regulate and control any lease it issues, the authority granted to it by the Cable Act, the Telecommunications Act of 1996, other state and federal laws, and those powers expressly reserved by the City, or agreed to and provided for in this lease, the right and power is hereby reserved by the City to promulgate such additional regulations as it may find necessary in the exercise of its lawful powers. Except as provided by City ordinance, the foregoing does not allow for amendment by the City of material terms of this lease without the consent of Sprint. The City reserves the right to delegate its authority for administering this lease to a designated agent.

Section 15. Damage to Property. Neither Sprint nor any person acting on Sprint's behalf shall take any action or permit any action to be done which may impair or damage any City property, public ways of the City, other ways or other property, whether publicly or privately owned, located in, on or adjacent thereto.

Section 16. Notice of Work. Unless otherwise provided in this lease, neither Sprint nor anyone acting on Sprint's behalf shall commence any non-emergency work in or about the public ways of the City, other ways, or upon City property without 10 working days advance notice to the City. The work for the site's epoxy mounting system will be done only with the City's prior approval and consent.

Section 17. Repair and Emergency Work. In the event of an unexpected repair or emergency Sprint may commence such repair and emergency response work as required under the circumstances, provided that Sprint shall notify the City as promptly as possible before such repair or emergency work commences or as soon thereafter as possible if advance notice is not practicable.

Section 18. Maintenance of Facility. Sprint shall maintain this facility in good and safe condition and in a manner that complies with all applicable Federal, State, and local requirements.

Section 19. Relocation or Removal of Facility. Within 30 days following written notice from the City, Sprint shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of this facility whenever the City Public Works Director shall have determined that such removal, relocation, change or alteration is reasonably necessary for a) the construction, repair, maintenance or installation of any City or other public improvement in or upon the public ways or city owned property and b) the operations of the City or other governmental entity in or upon the public ways or city owned property.

Section 20. Title and Quiet Possession. The City represents and agrees (a) that it is the owner of the site; (b) that it has the right to enter into this lease agreement; and (c) that the person signing this lease agreement for the City has the authority to sign.

Section 21. Removal of Unauthorized Facilities. Within 30 days following written notice from the City, Sprint shall, at its own expense, remove its facility or appurtenances from the water

tank. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

- A. Upon expiration or termination of this lease.
- B. Upon abandonment of the facility. Any property of Sprint's shall be deemed abandoned if left in place 90 days after expiration or termination of this lease.
- C. If the system or facility was constructed or installed without the prior grant of this lease.
- D. If the system or facility was constructed or installed without the prior issuance of a required Construction Permit.
- E. If the system or facility was constructed or installed at a location not permitted by this lease.

Provided, however, that the City may, in its sole discretion, allow Sprint to abandon such facilities in place. No facilities of any type may be abandoned in place without the express written consent of the City. Any plan for abandonment or removal of Sprint's facilities must first be approved by the Public Works Director, and all necessary permits must be obtained prior to such work. Upon permanent abandonment of the property of such persons in place, the property shall become that of the City, and such persons shall submit to the City an instrument in writing, to be approved by the City Attorney, transferring to the City the ownership of such property. The provisions of this paragraph shall survive the expiration, revocation, or termination of this lease.

Section 22. Emergency Removal or Relocation of Facility. The City retains the right and privilege to cut or move any cable or telecommunications facilities located within the public ways of the City and upon City property, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. The City shall not be liable to Sprint for any direct, indirect, or any other such damages suffered by any person or entity of any type as a direct or indirect result of the City's actions under this provision, provided that Sprint shall be permitted to operate a temporary facility at the water tank property during such emergency in order to maintain uninterrupted telecommunications service.

Section 23. Damage to Facility. Unless directly and proximately caused by the willful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of the telecommunications facility upon City property or within the public ways of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind on such City property or within the public ways by or on behalf of the City.

Section 24. Restoration of City Property.

A. When Sprint or any person acting on Sprint's behalf does any work in or affecting City property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City.

B. If weather or other conditions do not permit the complete restoration required by this Section, Sprint shall temporarily restore the affected property. Such temporary restoration shall be at Sprint's sole expense and Sprint shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

C. Sprint shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property.

D. The Public Works Director shall be responsible for inspection and final approval of the condition of the public ways, other ways, and City property following any construction and restoration activities therein. Further, the provisions of this paragraph shall survive the expiration, revocation, or termination of this lease.

Section 25. Insurance. Sprint shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Sprint, its agents, representatives or employees. Sprint shall provide an insurance certificate, together with an endorsement naming the City, its officers, elected officials, agents, employees, representatives, engineers, consultants and volunteers as additional insureds, to the City for its inspection prior to the commencement of any work or installation of any facilities pursuant to this Lease, and such insurance certificate shall evidence:

A. Comprehensive general liability insurance, written on an occurrence basis, with limits not less than:

1. \$1,000,000.00 for bodily injury or death to each person;
2. \$1,000,000.00 for property damage resulting from any one accident; and
3. \$1,000,000.00 for all other types of liability.

B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000.00 for each person and \$1,000,000.00 for each accident;

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00;

D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than \$1,000,000.00.

The liability insurance policies required by this Section shall be maintained by Sprint throughout the term of this Lease, and such other period of time during which Sprint is operating without a Facilities Lease, or is engaged in the removal of its telecommunications facilities. Sprint shall provide an insurance certificate, together with an endorsement naming the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insureds, to the City prior to the commencement of any work or

installation of any facilities pursuant to this Lease. Any deductibles or self-insured retentions must be declared to and approved by the City. Payment of deductibles and self-insured retentions shall be the sole responsibility of Sprint. The insurance certificate required by this Section shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Sprint's insurance shall be primary insurance with respect to the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance maintained by the City, its officers, officials, employees, consultants, agents, and volunteers shall be in excess of Sprint's insurance and shall not contribute with it.

In addition to the coverage requirements set forth in this paragraph, such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 60 days after receipt by the City, by registered mail, of a written notice addressed to the Public Works Director of such intent to cancel or not to renew."

Within 30 days after receipt by the City of said notice, and in no event later than 15 days prior to said cancellation or intent not to renew, Sprint shall obtain and furnish to the City replacement insurance policies meeting the requirements of this paragraph.

Section 26. General Indemnification. Sprint hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person, including claims by Sprint's own employees to which Sprint might otherwise be immune under Title 51 RCW, arising from injury, sickness, or death of any person or damage to property of which the negligent acts or omissions of Sprint, its agents, servants, officers or employees in performing the activities authorized by this Lease are the proximate cause. Sprint further releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the City, its officers and employees from any and all claims, costs, judgments, awards or liability to any person including claims by Sprint's own employees, including those claims to which Sprint might otherwise have immunity under Title 51 RCW, arising against the City solely by virtue of the City's ownership or control of the rights-of-way, or other public properties, by virtue of Sprint's exercise of the rights granted herein, or by virtue of the City's permitting Sprint's use of the City's public ways or other public property, or based upon the City's inspection or lack of inspection of work performed by Sprint, its agents and servants, officers or employees in connection with work authorized on the City's property or property over which the City has control, pursuant to this Lease or pursuant to any other permit or approval issued in connection with this Lease. This covenant of indemnification shall include, but not be limited by this reference, to claims against the City arising as a result of the negligent acts or omissions of Sprint, its agents, servants, officers or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work in any public way or other public place in performance of work or services permitted under this Lease. In the event that Sprint's transmission technology or facilities emit electromagnetic impulses (EMF), Sprint

expressly agrees that this indemnity provision extends to any and all claims for injury, sickness or death of any person, including employees of Sprint, arising out of or caused by said emissions.

Inspection or acceptance by the City of any work performed by Sprint at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation, provided, that Sprint has been given prompt written notice by the City of any such claim, has the right to defend or participate in the defense of any such claim, and has the right to approve any settlement or other compromise of any such claim.

In the event that Sprint refuses the tender of defense in any suit or any claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Sprint, then Sprint shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fees of recovering under this indemnification clause.

The obligations of Sprint under the indemnification provisions of this paragraph shall apply regardless of whether liability for damages arising out of bodily injury to persons or damages to property were caused or contributed to by the concurrent negligence of the City, its officers, agents, employees or contractors. The provisions of this section, however, are not to be construed to require Sprint to hold harmless, defend or indemnify the City as to any claim, demand, suit or action which arises out of the sole negligence of the City. It is further specifically and expressly understood that the indemnification provided herein constitutes Sprint's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. In the event that any court of competent jurisdiction determines that this contract is subject to the provisions of RCW 4.24.115, the parties agree that the indemnity provisions hereunder shall be deemed amended to conform to said statute and liability shall be allocated as provided therein.

Notwithstanding any other provisions of this Section, Sprint assumes the risk of damage to its telecommunications facilities located in the public ways and upon City-owned property from activities conducted by the City, its officers, agents, employees and contractors. Sprint releases and waives any and all claims against the City, its officers, agents, employees or contractors for damage to or destruction of Sprint's telecommunications facilities caused by or arising out of activities conducted by the City, its officers, agents, employees and contractors, in the public ways and upon City-owned property subject to this Lease, except to the extent any such damage or destruction is caused by or arises from the sole negligence or any willful or malicious action on the part of the City, its officers, agents, employees or contractors. Sprint further agrees to indemnify, hold harmless and defend the City against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of Sprint's facilities as the result of any interruption of service due to damage or destruction of Sprint's facilities caused by or arising out of activities conducted by the City, its officers, agents, employees or contractors, except to the extent any such damage or destruction is caused by or

arises from the sole negligence or any willful or malicious actions on the part of the City, its officers, agents, employees or contractors.

The provisions of this Section shall survive the expiration, revocation, or termination of this Lease.

Section 27. Performance Bond and Letter of Credit. A performance bond, written by a corporate surety acceptable to the City, equal to at least 100% of the estimated cost of removing Sprint's telecommunications equipment and facilities and restoring the public ways of the City and/or City-owned property to its pre-construction condition shall be deposited before any construction is commenced. Said bond shall be required to remain in full force until 60 days after the termination of the final term of this lease and shall warrant all such restoration work for a period of 1 year. The purpose of this bond is to guarantee removal of partially-completed and/or non-conforming telecommunications facilities and to fully restore the public ways of the City and City-owned property to its pre-construction condition. In addition, an unconditional letter of credit will be made out to the City in the amount of ten thousand dollars (\$10,000.00) to secure performance under this lease.

Section 28. Assignments or Transfers of Grant. This lease shall run with the property and shall be binding on and inure to the benefit of the parties, their respective successors, personal representatives and assigns. Sprint will not assign or transfer this lease or sublet all or any portion of the leased premises without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned; provided, however, Sprint may assign or sublet without the City's prior written consent to any party controlling, controlled by or under common control with Sprint or to any party which acquires substantially all of the assets of Sprint.

Section 29. Revocation, Forfeiture, and Termination. The rights granted under this Lease may be revoked or forfeited as provided in RMC Sections 12.14.0930 through 12.14.0960 as said Sections presently exist or are hereafter amended. Provided that the City may elect, in lieu of the above and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling Sprint to comply with the provisions of this Lease and to recover damages and costs incurred by the City by reason of Sprint's failure to comply. Provided, further, that nothing contained herein shall prevent the City from seeking civil or criminal penalties pursuant to RMC Section 12.14.0110. The City may, without assigning any reason therefor, terminate this Lease at any time upon 6 months prior notice to Sprint.

Section 30. Notice of Entry on Private Property. If directed by the City, at least 24 hours prior to entering private property or streets or public easements adjacent to or on such private property to perform new construction or reconstruction, a notice indicating the nature and location of the work to be performed shall be physically posted, at no expense to the City, upon the affected property by Sprint. A door hanger may be used to comply with the notice and posting requirements of this Section. Sprint shall make a good faith effort to comply with the property owner/resident's preferences, if any, on location or placement of underground installations (excluding aerial cable lines utilizing existing poles and existing cable paths), consistent with

sound engineering practices. Provided, however, that nothing in this lease shall permit Sprint to unlawfully enter or construct improvements upon the property or premises of another.

Section 31. Safety requirements. Sprint, in accordance with applicable federal, state, and local safety requirements shall, at all times, employ ordinary care and shall install and maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public and/or workers. All structures and all lines, equipment and connections in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the lease area, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair. The City reserves the general right to see that Sprint's system is constructed and maintained in a safe condition. If a violation of the National Electrical Safety Code or other applicable regulation is found to exist by the City, the City will, after discussions with Sprint, establish a reasonable time for Sprint to make necessary repairs. If the repairs are not made within the established time frame, the City may make the repairs itself or have them made and collect all reasonable costs thereof from Sprint.

Section 32. Hazardous Substances. The City represents that it has no actual knowledge of any substance, chemical or waste (collectively, "substance") on the site that is identified as hazardous, toxic, or dangerous in any applicable federal, state, or local law or regulation. Sprint shall not introduce or use any such substance on the site in violation of any applicable law.

Section 33. Attorneys' Fees. If a suit or other action is instituted in connection with any controversy arising out of this Lease, the prevailing party shall be entitled to recover all of its costs and expenses including such sum as the court may judge reasonable for attorneys fees, including fees upon appeal of any judgment or ruling.

Section 34. Utilities. Sprint shall provide its own utility services, either by agreement between Sprint and existing user or users, or by obtaining a separate meter for electricity or other utilities to be placed in Sprint's name.

Section 35. Business Purpose. All supporting structures, buildings, or facilities shall, to the extent technology and space permits, be available for joint use by existing or future users of the site, including the City. The City shall have the authority to permit the same without compensation to Sprint. Said use shall not prevent Sprint from using its equipment, nor cause interference with Sprint's transmission and signals. The City will endeavor to provide Sprint with 30 days notice of a new joint user.

Sprint shall conduct and carry on in the Facilities only the business for which the Facilities are leased, and shall not use the Facilities for any additional or illegal purposes. Sprint agrees that no stock of goods will be carried or anything done in or about the Facilities which will increase the present rate of insurance.

Section 36. Licenses, Fees, and Taxes. Prior to constructing any improvements upon the Facilities, Sprint shall obtain a business license from the City pursuant to RMC Chapter 5.04. Further, Sprint shall pay promptly, and before they become delinquent, all taxes on all

merchandise, personal property and improvements owned or placed by Sprint on the Facilities; shall pay all license fees and public utility charges related to the conduct of Sprint's business on the Facilities; shall pay for all permits, licenses and zoning approvals relating to the conduct of business on the Facilities by Sprint; Sprint shall pay all applicable leasehold tax; and shall pay any tax, including utility taxes and business license fees imposed by the City.

Section 37. Incorporation of RMC Chapter 12.14. RMC Chapter 12.14, as it now exists or may hereafter be amended, is hereby incorporated in full by this reference. In the event any provision of this Lease conflict with the provisions of RMC Chapter 12.14, the provisions of this Lease shall prevail.

Section 38. Holdover. At such time as this Lease expires, or is revoked or terminated for any cause, Sprint shall immediately remove its equipment and personal property from the premises. If Sprint shall, with the written consent of the City, holdover after the expiration of the term of this Lease, the holdover tenancy shall be for a period of time on a month to month basis, which tenancy may be terminated by the provision of 30 days advance written notice by the party seeking termination of the tenancy to the other party. During such tenancy, Sprint agrees to pay the City the annual rate of rental, prorated on a monthly basis, and further agrees to be bound by all of the terms, covenants, agreements and conditions as herein specified, so far as applicable.

Section 39. Fire and Other Casualty. In the event the Facilities are destroyed or damaged by fire, earthquake or other casualty to such an extent as to render the same untenable by Sprint in whole or in a substantial part, Sprint shall have the option to terminate the lease immediately without further liability or obligation to the City. No prepaid rent shall be refundable.

Section 40. Condemnation. In the event of the taking of the Facilities by condemnation or otherwise by any governmental, state or local authority, this Lease shall be deemed canceled as of the time of taking possession by said authority. Sprint shall have no claim to nor shall it be entitled to any portion of any condemnation or other award for damages to the Facilities.

Section 41. Signs. All signs or symbols placed on the Facilities by Sprint shall be subject to the prior approval of the City. In the event Sprint shall place signs or symbols on the Facilities where they are visible from the street and not acceptable to the City, the City may demand the immediate removal of such signs or symbols, and the refusal of Sprint to comply with such demand within a period of 24 hours will constitute a breach of this Lease, thereby entitling the City to exercise any available legal remedy and to remove the sign or symbol. Any signs placed upon the Facilities shall be so placed upon the understanding and agreement that Sprint will remove the same at the termination of this Lease and repair any resulting damage or injury to the Facilities. If such signs are not so removed upon termination by Sprint, then the City may have the same removed at Sprint's expense.

Section 42. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements of this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such covenant, agreement or option, or any other covenant, agreement or option.

Section 43. Cancellation of Prior Leases and Agreements. This Lease supersedes all previous leases and agreements, whether verbal or in writing or otherwise, between the parties which are hereby canceled.

Section 44. Reimbursement of City Expenses. Sprint shall be subject to all permit fees associated with activities undertaken through the authority granted in this Lease or under the laws of the City. Where the City incurs costs and expenses for review, inspection, or supervision of activities undertaken through the authority granted in this Lease or any ordinances relating to the subject for which a permit fee is not established, Sprint shall reimburse the City directly for any and all costs.

In addition to the above, Sprint shall promptly reimburse the City for any and all costs the City reasonably incurs in response to any emergency involving Sprint's telecommunications facilities.

Finally, Sprint shall reimburse the City upon submittal by the City of an itemized billing by project of costs, for Sprint's proportionate share of all actual, identified expenses incurred by the City in planning, constructing, installing, repairing or altering any City facility as the result of the presence of Sprint's facilities.

Such costs and expenses shall include but not be limited to Sprint's proportionate cost of City personnel assigned to oversee or engage in any work as the result of the presence of Sprint's facility on City-owned property. Such costs and expenses shall also include Sprint's proportionate share of any time spent reviewing construction plans in order to either accomplish the relocation of Sprint's facilities or the routing or rerouting of any utilities so as not to interfere with Sprint's facilities.

The time of City employees shall be charged at their respective rate of salary, including overtime if applicable, plus benefits and overhead. Any other costs will be billed proportionately on an actual cost basis. All billings will be itemized so as to specifically identify the costs and expenses for each project for which the City claims reimbursement. A charge for the actual costs incurred in preparing the billing may also be included in said billing. The billing may be on an annual basis, but the City shall provide Sprint with the City's itemization of costs at the conclusion of each project for information purposes.

Section 45. Non-Severability. Each term and condition of this Lease is an integral part of the consideration given by each party and as such, the terms and conditions of this Lease are not severable. If any section, sentence, clause or phrase of this Lease should be held to be invalid or unconstitutional by a court of competent jurisdiction, this Lease shall terminate unless suitable replacement terms can be agreed to by the parties.

Section 46. Merger. This Lease constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution of this Lease.

Section 47. Dangerous Conditions, Authority for City to Abate. Whenever construction, installation, or excavation of telecommunications facilities authorized by this Lease has caused

or contributed to a condition that appears to substantially impair the lateral support of the adjoining public way, street, or public place, or endangers the public, street utilities, or City-owned property, the Public Works Director may direct Sprint, at the Sprint's own expense, to take action to protect the public, adjacent public places, City-owned property, streets, utilities, and public ways. Such action may include compliance within a prescribed time.

In the event that Sprint fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, utilities, public ways, to maintain the lateral support thereof, or actions regarded as necessary safety precautions; and the Sprint shall be liable to the City for the costs thereof. The provisions of this Section shall survive the expiration, revocation, or termination by other means of this Lease.

DATED this _____ day of _____, 1997.

CITY OF REDMOND LESSEE

Sprint Spectrum L.P., a Delaware limited partnership

By: _____
MAYOR, ROSEMARIE IVES

ATTEST/AUTHENTICATED:

CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

By: _____

EXHIBIT A.1

Site Name: Redmond
Site I.D.: BELL-013-011
Memorandum of PCS Site Agreement: Notary of Signatures

STATE OF WASHINGTON
COUNTY OF KING

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

Dated this _____ day of _____, 19____.

(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC-STATE OF WASHINGTON

(PRINTED, TYPED OR STAMPED NAME OF NOTARY)

My commission expires: _____

STATE OF WASHINGTON)
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the authorized employee of Sprint Spectrum L.P., a Delaware limited partnership, to be the free and voluntary act of such limited partnership for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 19____.

(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC-STATE OF WASHINGTON

(PRINTED, TYPED OR STAMPED NAME OF NOTARY)

My commission expires: _____

AFTER RECORDING PLEASE RETURN TO:

Sprint Spectrum L.P.
11000 NE 33rd Place, Suite 200
Bellevue, WA 98004
Attn: Nancy Sears

Attn: Nancy Sears
Site Name: Redmond PCS Site Agreement
Site I.D.: BELL-013-01

Memorandum of PCS Site Agreement

This memorandum evidences that a lease was made and entered into by written PCS Site Agreement dated _____ 1997, between The City of Redmond in Washington State ("Owner") and Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), the terms and conditions of which are incorporated herein by reference.

Such Agreement provides in part that Owner leases to SSLP a certain site ("Site") located at 18609 NE 65th Street, City of Redmond, County of King, State of Washington, within the property of Owner which is described in Exhibit ____, attached hereto, with grant of easement for unrestricted rights of access thereto and to electric and telephone facilities for a term of one (1) year commencing on _____, 19____, which term is subject to ten (10) additional one (1) year extension periods by SSLP.

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

"Owner" "SSLP"

The City of Redmond Sprint Spectrum L.P., a Delaware limited partnership

By: _____

By: _____

Name: Ted King

Title: Director, Seattle MTA

Address: 11000 NE 33rd Place, Suite 200, Bellevue, WA 98004

.. Continuation of owner signatures follows immediately

Owner Initials _____

SSLP Initials _____