

**THE ERWIN BOARD OF COMMISSIONERS
AUGUST 2020 REGULAR MEETING
THURSDAY, AUGUST 6, 2020 @ 7:00 P.M.
ERWIN MUNICIPAL BUILDING BOARD ROOM**

AGENDA

1. MEETING CALLED TO ORDER

- A. INVOCATION
- B. PLEDGE OF ALLEGIANCE

2. AGENDA ADJUSTMENTS /APPROVAL OF AGENDA

3. CONSENT (Page 2)

All items on Consent Agendas are considered routine, to be enacted on one motion without discussion. If a Board member or citizen request discussion of an item, the item will be removed from the consent Agenda and considered under New Business.

- A. Minutes of Regular Meeting on June 4, 2020 (Page 2)
- B. Minutes of Special Called Meeting on June 23, 2020 (Page 7)
- C. Financial Report for June 2020 (Page 10)
- D. Billy Howell resignation from the Erwin Planning Board (Page 12)

4. PUBLIC COMMENT

Each speaker is asked to limit comments to 3 minutes, and the requested total comment period will be 15 minutes or less. Citizens should sign up prior to the start of the meeting. Please provide the clerk with copies of any handouts you have for the Board. Although the Board is interested in hearing your concerns, speakers should not expect Board action or deliberation on subject matter brought up during the Public Comment segment. Thank you for your consideration of the Town Board, staff and other speakers. §160A-81.1

5. NEW BUSINESS

- A. 2020-2021 Street Resurfacing Recommendations (Page 13)
- B. Inter-local agreement with Harnett County to provide funds from COVID-19 (Page 16)
- C. American Tower Request (Page 22)

6. MANAGER'S REPORT

7. ATTORNEY'S REPORT

8. GOVERNING BODY COMMENTS

9. CLOSED SESSION

- A. Pursuant to General Statute 143-318.11 (a) (6) for the Purpose of Discussing Personnel

10. ADJOURNMENT

ERWIN BOARD OF COMMISSIONERS
REGULAR MINUTES
JUNE 4, 2020
ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Carson presiding, held its Regular Meeting in the Town Hall on Thursday, June 4, 2020 at 7:00 P. M. in Erwin, North Carolina.

Board Members present were: Mayor Patsy Carson, Commissioners William Turnage, Randy Baker, Ricky Blackmon, Alvester McKoy, Thurman Whitman and Melinda Alvarado.

Town Manager Snow Bowden and Town Clerk Cynthia Patterson were present.

Town Attorney Tim Morris was present.

Mayor Carson called the meeting to order at 7:00 P. M.

Commissioner McKoy gave the invocation.

Those present recited the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Turnage made a motion to add under Consent Items (Item G) Budget Amendment 007 and (Item H) Audit ending June 30, 2020 with Thompson, Price, Scott, Adams & Co. and was seconded by Commissioner Baker. **The Board voted unanimously.**

CONSENT ITEMS

Commissioner Turnage made a motion to approve **(Item A)** Approval of Regular Minutes of 05/07/20, **(Item B)** Financial Report Summary for April 2020, **(Item C)** DM2 Retainer Contract, **(Item D)** N-Focus Agreement, **(Item E)** Resolution of Awarding Badge and Service Sidearm to Ralph Kerley, **(Item F)** Budget Ordinance Amendment BOA 2020-06, **(Item G)** Budget Ordinance Amendment BOA 2020-07, and **(Item H)** Audit ending June 30, 2020 with Thompson, Price, Scott, Adams & Co. and was seconded by Commissioner McKoy. **The Board voted unanimously.**

*A copy of the Financial Report Summary for April 2020, DM2 Retainer Contract, N-Focus Agreement, Resolution of Awarding Badge and Service Sidearm to Ralph Kerley, Budget Ordinance Amendment BOA 2020-06, Budget Ordinance Amendment BOA 2020-07, and Audit ending June 30, 2020 with Thompson, Price, Scott, Adams & Co. is incorporated into these minutes as **Attachment #1***

MINUTES CONTINUED FROM JUNE 4, 2020

PUBLIC HEARING

Commissioner Baker made a motion to open the public hearing at 7:03pm and was seconded by Commissioner Turnage. **The Board voted unanimously.**

PROPOSED BUDGET FOR FISCAL YEAR 2020-2021

Town Manager Snow Bowden informed the board of some budget highlights that are below.

Budget Highlights

- In the proposed budget there is not an increase in the property tax rate. The property tax rate remains the same at \$.51. There is a slight decrease in the amount I have projected we will collect. Harnett County does a great job for the Town by collecting our taxes and they have a high collection rate percentage. Typically, it is around 98% to 99%. In this proposed budget I have estimated the collection rate at 95%.
- The proposed budget includes a contribution to the Erwin Fire Department based on a \$.095 tax rate.
- Health insurance rates increased by 5%. The health insurance rates will be \$498/month per employee and qualified retirees.
- In the proposed budget there are increases in retirement rates that are mandated by the State of North Carolina retirement system. Keep in mind these rates will be rising again for sure over the next two Fiscal Years as well. For regular employees this rate includes the death rate. For Law Enforcement Officers the death benefit is offset by court costs
 - Regular employees increased from .0907% to .1025% of an employee's salary
 - Police Officer rates increased from .0970% to .1084% of an officer's salary
- The separation allowance in the line item in the Police Department budget increased due to the resignation of First Sergeant Ralph Kerley. His yearly allowance will be \$6,264. He will receive this allowance until he reaches the age of 62.
- There were numerous capital outlay requests from department heads. In this proposed budget there are no capital outlay requests being funded. Due to the uncertainty of the current economic conditions.
- I had initially planned to request funds for a comprehensive land use plan. The Town does have a land use plan that was completed in 2014. The Town needs a comprehensive land use plan to be in compliance with NCGS 160D. I feel like our current land use plan can meet the criteria set out in this new legislation but this is something we need to plan to do in the next Fiscal Year if it does not meet the standards. In the law it also states that the plan has to be updated on a timely basis. The

MINUTES CONTINUED FROM JUNE 4, 2020

law does not set a certain ‘time period’ but this is also something that needs to be considered when developing a plan.

- The proposed budget does include continuing to use NFOCUS to handle our Code Enforcement. Currently, they send someone once a week. In this proposed budget I have only proposed funding to have them send someone 3 days a month at \$19,873.
- The Town of Erwin has an agreement with Waste Industries (Now known as GFL Environmental) to provide trash/recycling collection for our residents. The Town saw a major savings when they switched from Republic to Waste Industries. In the agreement the Town had with Waste Industries their fees had to remain the same during the first two years of the agreement. After two years, they could go up based on the current trends in the industry/ cost of living. Their fee is going up 3.2%. This is the last year of our agreement with Waste Industries/GFL Environmental. In a few months they will send us a proposed agreement to renew the contract. The Town can always put the contract out for bid again to see if we can get a better rate.
 - The processing fee for recyclables has skyrocketed. The fee has increased from \$.36/per ton to \$.61/per ton. There is still a processor in Eastern North Carolina at the moment. There have been some municipalities that have had to cut out items that were once considered recyclable due to the changes in the market. We also have to deal with a lot of contamination here in Town (when someone puts items that are not recyclable in their recycling container) which causes the fees to be increased.
 - Increase in rates for trash collection- \$1.66/per container
 - Increase in rates for recycling collection- \$0.98/per container
- The proposed budget does not include any increases in fees other than the increase in fees for trash and recycling collection.
- The proposed budget does include cuts in some of the part-time help for each department.
- The proposed budget does not have any money in proposed in contract services for storm water. Storm water is something that I wanted to address at our budget retreat. I do think we will need to reevaluate this later in the year when we have a better idea of where we stand financially.

Due to COVID-19 citizens were instructed to call/email the Town Manager or Town Clerk of any questions or comments for the proposed budget prior to this public hearing.

No one called or emailed.

The Town Manager was instructed by the board to freeze a position in Public Works and a position of Town Planner instead of eliminating. Will look at revenues later in fiscal year. Will also revisit salary increases as well.

Commissioner Baker made a motion to close the public hearing at 7:17pm and was seconded by Commissioner McKoy. **The Board voted unanimously.**

MINUTES CONTINUED FROM JUNE 4, 2020

OLD BUSINESS

DUNN-ERWIN RAIL TRAIL RULES

The Dunn-Erwin Rail Trail Board has put together a list of rules for the trail. In order for them to be enforceable they require approval from the Erwin Board of Commissioners. They have already been approved by the Harnett County Board of County Commissioners and the Dunn Board of Commissioners. The main thing these rules address is ATV's on the trail. We have received numerous complaints on this matter. We will not be able to catch everyone but if these rules are approved it is something that could be enforced when necessary. To the best of my knowledge the Harnett County Recreation Department would be purchasing the signs and installing them. There could be a delay in obtaining the signs due to COVID-19.

After some discussion, Commissioner Baker made a motion to table this item and was seconded by Commissioner Whitman. **The Board voted unanimously.**

CLOSED SESSION

Commissioner Baker made a motion to go into a closed session at 7:32pm in pursuant to G.S. 143-318.11 (a) (6) to discuss personnel and was seconded by Commissioner Turnage. **The Board voted unanimously.**

RECONVENED

Commissioner Turnage made a motion to go back in regular session at 8pm and was seconded by Commissioner Whitman. **The Board voted unanimously.**

GOVERNING COMMENTS

Commissioner Turnage expressed concern of a tree on Mason Drive.

Mayor Carson informed the board of a graduation walk on Monday, June 8, 2020.

MINUTES CONTINUED FROM JUNE 4, 2020

ADJOURNMENT

Commissioner Turnage made a motion to adjourn at 8:15pm and was seconded by Commissioner Whitman. **The Board voted unanimously.**

**MINUTES RECORDED AND TYPED BY
CYNTHIA B PATTERSON TOWN CLERK**

**Patsy M. Carson,
Mayor**

**Cynthia B. Patterson, CMC
Town Clerk**

ERWIN BOARD OF COMMISSIONERS
SPECIAL CALLED SESSION MINUTES
JUNE 23, 2020
ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Carson presiding, held a Special Called Session in the Town Hall on Tuesday, June 23, 2020 at 6:00 P. M. in Erwin, North Carolina.

Board Members present were: Mayor Patsy Carson, Commissioners William Turnage, Randy Baker, Ricky Blackmon, Alvester McKoy, Thurman Whitman and Melinda Alvarado (participated remotely).

Town Manager Snow Bowden was present.

Mayor Carson called the meeting to order at 6:00 P. M.

Mayor Carson gave the invocation.

Those present recited the Pledge of Allegiance.

DISCUSSION

PROPOSED BUDGET FISCAL YEAR 2020-2021

Town Manager Snow Bowden informed the board of the changes that were made to the proposed budget since our last time the budget was presented.

Budget Updates

- Our property, liability and workers compensation rates came in a little higher than I expected but they are still competitive. All of the policies together are \$67,642.
- Property and liability increased from \$30,645 to \$32,399. The primary reason for this increase was the splash pad and updated equipment at the park (new lights).
- Workers Compensation increased from \$25,512 to \$33,311.
- Cyber insurance increased from \$1,673 to \$1,932.
- This updated proposed budget includes funding for the positions that were cut in the first budget presentation (one employee in Public Works and one in Planning). At the moment, we have three vacant positions (two in Public Works and one in Planning). These positions will remain vacant until we have a better idea of where our revenues are at in the fall.
- No tax increase. The only fee increase our residents will see is for trash and recycling collection. This is our last year on contract with Waste Industries. We can rebid this contract out.

MINUTES CONTINUED FROM JUNE 23, 2020

- I included funds to potentially conduct an updated pavement study using funds from the Powell Bill. The amount of revenue generated by the Powell Bill will probably be lower this year as well due to COVID-19. I think we should hold off on the study until we see where revenues are at in the fall/winter. The study we are currently using was done in 2013 so it is starting to get dated.
- We could hold off until the next Fiscal Year to complete the pavement study. I had a conversation with our Town Engineer Bill Dreitzler and he mentioned to me the fact that we had discussed the conditions of the three streets that were a part of the first phase of the East Erwin drainage project (River, Burton and Maye). In the past, when these roads were discussed about resurfacing it was decided to hold off until we completed the work to the ditches because we were going to have to cut into the road. If we decide to resurface these roads in the upcoming Fiscal Year we could hold off on a pavement study.

Commissioner Blackmon brought up the fact that he would like to see a cost-of-living (COLA) raise included in the budget. This is something that we can re-visit around February 2021. He stated a COLA is something that we owe the Town Staff. There was the consensus of the Board to revisit giving Town Staff a COLA in February.

Commissioner Baker stated that this is a cautious approach to the budget based on the concerns over COVID-19. He would also like to revisit including a COLA to Town Staff once we see what the impacts to our revenues are due to COVID-19. Every municipality is approaching the budget cautiously due to COVID-19. He stated that he agreed with Commissioner Blackmon.

Commissioner Blackmon made a motion to approve Budget Ordinance Town of Erwin FY 2020/2021 and was seconded by Commissioner Baker. **The Board voted unanimously.**

*A copy of the Budget Ordinance for the Town of Erwin FY 2020/2021 is incorporated into these minutes as **Attachment #1***

CONTRACT WITH HARNETT COUNTY INFORMATION TECHNOLOGY

Town Manager Snow Bowden informed the board that he just wanted their approval to sign this contract. The funds were included in the budget. Commissioner Blackmon asked if he knew exactly how much we were paying them for this service. Town Manager Snow Bowden stated all together around \$8,000. The Town pays for a block of time with the County for our IT needs. The other fees are fixed fees for services including phones, e-mails, servers and other technological needs.

MINUTES CONTINUED FROM JUNE 23, 2020

After some discussion, Commissioner Blackmon made a motion to authorize the Town Manager Snow Bowden to sign this contract and was seconded by Commissioner Baker. **The Board voted unanimously.**

A copy of the Computer Support Services contract with Harnett County is incorporated into these minutes as Attachment #2

CLOSED SESSION

Commissioner McKoy made a motion to go into a closed session at 6:11 PM in pursuant to G.S. 143-318.11 (a) (6) to discuss personnel and was seconded by Commissioner Turnage. **The Board voted unanimously.**

RECONVENED

Commissioner Baker made a motion to go back in regular session at 6:24 PM and was seconded by Commissioner Blackmon. **The Board voted unanimously.**

ADJOURNMENT

Commissioner Baker made a motion to adjourn at 6:24 PM and was seconded by Commissioner Blackmon. **The Board voted unanimously.**

**MINUTES RECORDED AND TYPED BY
SNOW BOWDEN TOWN MANAGER**

Patsy M. Carson,
Mayor

Cynthia B. Patterson, CMC
Town Clerk

TOWN OF ERWIN
 FINANCIAL SUMMARY REPORT
 FOR MONTH ENDING JUNE 2020

	ANNUAL BUDGET	JUNE ACTIVITY	ACTUAL TO DATE	Y-T-D % COLLECTED
CURRENT YEAR LEVY OF PROPERTY TAXES	1,090,589.00	7,961.14	1,137,002.17	104.26%
CURRENT YEAR MOTOR VEHICLE TAXES	158,309.00	11,788.95	149,211.28	94.25%
PRIOR YEAR TAXES	10,000.00	1,209.12	13,006.45	130.06%
UTILITIES FRANCHISE TAXES	197,000.00	48,944.77	192,554.57	97.74%
ENTRY FEES	20,000.00		19,031.00	95.16%
SALES & USE TAX	650,000.00	61,718.65	716,944.58	110.30%
ZONING PERMITS/APPLICATIONS	10,000.00	500.00	7,575.75	75.76%
REFUSE COLLECTIONS FEES	391,180.00	29,283.14	386,092.18	98.70%
STORM WATER COLLECTION	63,930.00	5,372.50	60,082.50	93.98%
ALL OTHER REVENUES	1,628,130.53	32,037.65	1,566,997.36	
	4,219,138.53	198,815.92	4,248,497.84	100.70%
	ANNUAL BUDGET	JUNE ACTIVITY	ACTUAL TO DATE	Y-T-D % SPENT
GOVERNING BODY	51,815.00	1,776.21	29,465.53	56.87%
ADMINISTRATION	305,619.29	21,810.49	293,375.56	95.99%
NON-DEPARTMENTAL	265,338.00	(16,186.45)	259,837.08	97.93%
PLANNING & INSPECTIONS	123,741.00	33,280.00	64,857.22	52.41%
POWELL BILL-STREETS	182,000.00	0.00	46,893.71	25.77%
POLICE	846,649.50	62,768.64	761,447.39	89.94%
POLICE-SRO	123,797.00	8,153.45	105,425.20	85.16%
CONTRACT SERVICES-FIRE	233,254.00	3,939.55	243,254.11	104.29%
PUBLIC WORKS-ADMIN.	105,647.00	6,878.87	97,009.85	91.82%
PUBLIC WORKS-STREETS	1,196,355.43	21,939.29	1,041,520.26	87.06%
PUBLIC WORKS-SANITATION	318,902.00	27,263.92	315,978.33	99.08%
PUBLIC WORKS-STORM WATER	40,000.00	265.29	3,035.51	7.59%
RECREATION	348,464.31	18,659.33	287,566.42	82.52%
LIBRARY	59,256.00	3,880.59	53,790.41	90.78%
COMMUNITY CENTER	18,300.00	185.24	15,222.19	83.18%
	4,219,138.53	194,614.42	3,618,678.77	85.77%
Y-T-D GENERAL FUND BALANCE INCREASE (DECREASE)		4,201.50	629,819.07	

BALANCES AS OF JUNE 30, 2020

CASH MANAGEMENT	1,278,470.74
BB&T CASH IN BANK	382,312.84
FIRST FEDERAL BUSINESS MONEY MARKET	136,097.03
FIRST FEDERAL MONEY MARKET	854,875.19
Y-T-D INVESTMENT BALANCE IN GENERAL FUND ACCOUNTS	2,651,755.80
BB&T STATE FORFEITURE	3,691.32
BB & T CAPITAL RESERVE/COMM. ENHANCEMENT	163,335.71
FIRST FEDERAL CAP. RESERVE/GENERAL	2,344,195.25
BB&T HEALTH RESERVE HRA ACCT.	13,446.59
PRIEBE FIELD ACCT.	10,776.72
AL WOODALL PARK IMPROVEMENTS	416,356.99
Y-T-D INVESTMENT BALANCE RESTRICTED FUNDS	2,951,802.58
CUMULATIVE BALANCE FOR TOWN OF ERWIN	5,603,558.38

POWELL BILL BALANCE **417,394.78**

TOWN OF ERWIN
 FINANCIAL SUMMARY REPORT
 YTD COMPARISON OF FY 2020 & FY 2019



REVENUES	YTD		YTD DIFFERENCE
	Jun-20	Jun-19	
CURRENT YEAR LEVY OF PROPERTY TAXES	1,137,002.17	1,139,429.26	(2,427.09)
CURRENT YEAR MOTOR VEHICLE TAXES	149,211.28	149,380.34	(169.06)
PRIOR YEAR TAXES	13,006.45	12,722.22	284.23
UTILITIES FRANCHISE TAXES	192,554.57	199,857.15	(7,302.58)
ENTRY FEES		19,415.00	(19,415.00)
SALES & USE TAX	19,031.00	674,839.69	(655,808.69)
ZONING PERMITS/APPLICATIONS	716,944.58	8,790.00	708,154.58
PERMITS AND INSPECTION FEES	7,575.75	2,765.00	4,810.75
REFUSE COLLECTIONS FEES	386,092.18	383,338.08	2,754.10
STORM WATER COLLECTION	60,082.50	38,830.50	21,252.00
ALL OTHER REVENUES	1,566,977.36	801,836.71	765,140.65
	4,248,477.84	3,431,203.95	817,273.89
			23.82%
EXPENSES	YTD		YTD DIFFERENCE
	Jun-20	Jun-19	
GOVERNING BODY	29,465.53	30,087.05	(621.52)
ADMINISTRATION	293,375.56	288,137.67	5,237.89
NON-DEPARTMENTAL	259,837.08	309,083.80	(49,246.72)
PLANNING & INSPECTIONS	64,857.22	30,376.18	34,481.04
POWELL BILL-STREETS	46,893.71	166,667.88	(119,774.17)
POLICE	761,447.39	926,937.97	(165,490.58)
POLICE-SRO	105,425.20		105,425.20
CONTRACT SERVICES-FIRE	243,254.11	218,897.37	24,356.74
PUBLIC WORKS-ADMIN.	97,009.85	96,897.57	112.28
PUBLIC WORKS-STREETS	1,041,520.26	421,094.50	620,425.76
PUBLIC WORKS-SANITATION	315,978.33	391,275.60	(75,297.27)
PUBLIC WORKS STORM WATER	3,035.51	7,217.60	(4,182.09)
RECREATION	287,566.42	350,535.10	(62,968.68)
LIBRARY	53,790.41	31,942.87	21,847.54
COMMUNITY CENTER	15,222.19	6,391.44	8,830.75
	3,618,678.77	3,275,542.60	343,136.17
Y-T-D GENERAL FUND BALANCE INCREASE (DECREASE)	629,799.07	155,661.35	474,137.72
			10.48%

ACCOUNT BALANCES	YTD	
	Jun-20	Jun-19
CASH MANAGEMENT	1,278,470.74	1,102,682.54
BB&T CASH IN BANK	382,312.84	72,434.95
FIRST FEDERAL BUSINESS MONEY MKT.	136,097.03	135,098.08
FIRST FEDERAL MONEY MARKET	854,875.19	852,960.33
Y-T-D BALANCE IN GENERAL FUND ACCOUNTS	2,651,755.80	2,163,175.90
BB&T STATE FORFEITURE	3,691.32	1,583.97
FIRST FEDERAL CAP. RESERVE/COMMUNITY ENHANCE	163,335.71	138,398.04
FIRST FEDERAL CAP. RESERVE/GENERAL	2,344,195.25	3,017,272.83
BB&T HEALTH RESERVE HRA ACCT.	13,446.59	9,035.83
PRIEBE FIELD ACCT.	10,776.72	9,923.16
AL WOODALL PARK IMPROVEMENTS	416,356.99	
Y-T-D BALANCE RESTRICTED FUNDS	2,951,802.58	3,176,213.83
CUMULATIVE BALANCE FOR TOWN OF ERWIN	5,603,558.38	5,339,389.73

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners
From: Snow Bowden, Town Manager
Date: August 6, 2020
Subject: Billy Howell resignation from the Erwin Planning Board

Snow,

I will be stepping down from the planning board effective immediately. I apologize for the inconvenience I simply just do not have the time to dedicate to it. Thank you for your understanding and again I apologize for the inconvenience.

Thank you

Billy Howell
295 Don Ron Rd, Erwin, NC 28339

NEW BUSINESS

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners
From: Snow Bowden, Town Manager
Date: August 6, 2020
Subject: 2020-2021 Street Resurfacing Recommendation

Town Engineer Bill Dreitzler has put together a list of the roads he recommended that we resurface this Fiscal Year. The roads that are recommended to be resurfaced are in very poor shape and we have discussed resurfacing them before in the past. But we also knew that we wanted to move forward with the first phase of the East Erwin drainage project and that was going to require the roads to be cut to have the new culverts installed so resurfacing these roads was put on hold. We completed the first phase of the East Erwin drainage project this past fiscal year and now we are recommended to resurface these roads.

Attachments:

- Memo from Town Engineer Bill Dreitzler

Action Recommended:

- Approve the recommended roads so we can put this project out for bids



TOWN OF ERWIN

Post Office Box 459

Erwin, NC 28339

(910) 897-5140

M-E-M-O-R-A-N-D-U-M

DATE: July 14, 2020
TO: Mr. Snow Bowden, Town Manager
FROM: Bill Dreitzler, P.E., Town Engineer
RE: 2020-2021 Powell Bill Street Re-surfacing Priority Recommendations

Snow,

After review of our street resurfacing locations over the last few years, review of the 2013 Pavement Condition Survey, and our continued field condition evaluation, please consider the following recommendations:

1. River Drive (775 LF) – Estimated Cost \$23,250
2. Burton Avenue (792 LF) – Estimated Cost \$23,760
3. Maye Street (792 LF) – Estimated Cost \$23,760
4. Raynor Street (675 LF) – Estimated Cost \$20,250
5. Jenkins Street (1,218 LF) – Estimated Cost \$36,540
6. Prince Street (640 LF) – Estimated Cost \$19,200

We have been monitoring these streets for several years. Back when the 2013 Street Pavement Condition Survey was completed Burton Avenue was listed as “very poor” and a portion of Raynor Street and a portion of River Drive were listed as “poor”. These streets would have been recommended priorities sooner; however, it would not have been advisable to resurface these streets prior to the completion of the East Erwin Drainage Improvement Project.

Based on the above recommendations, the budget estimate for the 2020-2021 resurfacing is \$146,760. I also recommend consideration of an additional \$20,000 allocated for possible street patching that may be determined to be advisable prior to resurfacing the recommended streets. Any recommended street repairs prior to resurfacing will be a field determination made by the Town with input from the awarded contractor. With the additional \$20,000 allocation, the total FY 2020-2021 Resurfacing Budget Estimate is \$166,760.

Looking ahead to future resurfacing efforts, it is my opinion that the Street Pavement Condition Survey completed back in 2013 is no longer an effective tool to evaluate resurfacing priorities. Typically, these studies are updated every 5-years. Consideration should be given to budget this update for completion prior to the FY 2021-2022 resurfacing recommendations. I estimate the cost of the update to be approximately \$20,000.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Dreitzler". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Bill Dreitzler, P.E.
Town Engineer

NEW BUSINESS

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners
From: Snow Bowden, Town Manager
Date: August 6, 2020
Subject: Inter-local agreement with Harnett County

The Town of Erwin should receive \$234,841 in funding from the Coronavirus Relief Act (CARES ACT). The Town will be reimbursed by Harnett County. The Town is required to submit a plan to Harnett County by August 21st. We will submit monthly reports/invoices until we receive our allotted amount. These funds are earmarked and can only be used for items directly related to the response to COVID-2019. The first step in getting this process rolling is to approve this inter-local agreement with Harnett County.

Attachments:

- Inter-local agreement with Harnett County

Action Recommended:

- Authorize the Town Manager Snow Bowden to sign this agreement with Harnett County

**HARNETT COUNTY, NORTH CAROLINA
REIMBURSEMENT AGREEMENT FOR CORONAVIRUS RELIEF FUND**

THIS REIMBURSEMENT AGREEMENT (hereinafter “Agreement”), made and entered into this ___ day of _____ 2020, by and between the County of Harnett, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as “County”) and _____, a North Carolina _____ organized and existing under the laws of the state of North Carolina (hereinafter referred to as “Municipality”);

WITNESSTH

WHEREAS, North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The CRF allocation for the County totals \$5,101,389.00; and

WHEREAS, pursuant to North Carolina Session Law 2020-80, twenty-five percent (25%) of the County’s CRF funds shall be allocated to municipalities within Harnett County and that the total amount and method of allocating the funds shall be determined solely by the County; and

WHEREAS, the allocation methodology chosen uses a pro rata calculation based on the Municipality’s percentage of the County’s total municipal population based on the 2019 population estimates certified to the Secretary of Revenue by the State Demographer with the Office of State Budget and Management; and

WHEREAS, the County and Municipality mutually desire to establish the means and method for the allocation of Municipality’s portion of these funds through a reimbursement agreement.

NOW THEREFORE, in consideration of the promises and further consideration of the mutual agreements contained herein, as well as the financial consideration, the parties hereto agree as follows:

1. The Recitals set forth above, along with the definitions of certain terms are incorporated herein by reference as if fully restated.
2. Amount of Funds. The County shall provide Municipality a portion of its CRF allocation not to exceed the amount of \$_____, based on the Municipality’s percentage of the County’s total municipal population of the twenty-five percent (25%) of the CRF funds set aside for local municipalities. Actual funding amount will be allocated in accordance with planned expenditures described in the Coronavirus Relief Fund Plan, outlined in Section 3.
3. Coronavirus Relief Fund Plan. Municipality shall submit a Coronavirus Relief Fund Plan (CRF Plan), which is incorporated herein by reference, to the County which details how Municipality will spend its allocation of the CRF funds. The CRF Plan shall be submitted to the

County no later than August 21, 2020. If the proposed use of the funds in the CRF Plan is not approved by the County or the State, Municipality shall submit an amended CRF Plan for approval.

4. Certification. Any CRF funds to be disbursed to Municipality will only be made as a reimbursement. Prior to any such disbursement, the Municipality shall make a report that is compliant with the requirements of the North Carolina Office of State Budget and Management (OSBM) and certify to the County that the funds being reimbursed:

- Were necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19) and were not accounted for in the budget most recently approved by Municipality as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government;
- Were incurred during the period that began on March 1, 2020 and ends on December 30, 2020 in accordance with the budget proposal submitted to County by Municipality;
- Were spent in a manner consistent with terms for the CRF set forth by the North Carolina Pandemic Recovery Office and in accordance with all applicable State and federal laws; and
- Were spent in accordance with the Municipality's CRF Plan.

County reserves the right to reasonably request additional documentation to demonstrate compliance with the CARES Act and North Carolina Session Law 2020-4, the "COVID-19 Recovery Act" and 2020-80, the "2020 Coronavirus Relief Fund/Additions & Revisions."

It is the intent of Municipality to use the allocated CARES Act funds to pay salaries and benefits for the _____ Police Department. According to the NC Pandemic Recovery Office (NCPRO), "CRF money can be used for payroll expenses for all public health and public safety employees, such as Health Department managers, EMS, law enforcement, etc...Per US Treasury guidance, these are eligible expenses even though the previously approved budget includes funds for these employees to perform their regular duties because they are working on COVID-19 mitigation or response." However, this intent does not preclude the Municipality from expending funds in accordance with Municipality's approved CRF Plan.

5. Reimbursement Process. Municipality will only be reimbursed for qualified expenses that were identified and approved in Municipality's CRF Plan. Municipality shall provide the monthly report described in Section 4 above to County no later than the 10th day of the month for the previous month's expenditures. Municipality's first report and certification requesting reimbursement shall be due on the tenth day of the month immediately following approval of Municipality's CRF Plan. Following receipt of the report and certification requesting reimbursement of the Municipality the County shall review for compliance. County will notify Municipality of its approval or denial not later than the 19th day of the month. Approved reports will be uploaded to OSBM's portal in accordance with the State's reporting requirements. Reimbursement payments will be processed and disbursed Net 30 days after receipt of a correct report. A denial will include a reasonable description of the reason for denial and offer an

opportunity to cure any deficiencies. If Municipality fails to provide a timely monthly report to County, reimbursement may be delayed or denied. Any portion of the maximum amount of CRF funds listed as available for reimbursement uses by the Municipality that are not properly and timely requested for disbursement by the Municipality shall be revert back to the County.

6. Submission of Plan and Reports. All Plans and Reports shall be submitted to Brian Haney, Assistant County Manager, County of Harnett, via email at bhaney@harnett.org and shall be submitted in accordance with the timelines and manner outlined in this Agreement. Municipality shall also be required to submit a final report to County that is compliant with the requirements of OSBM upon the exhaustion of Municipality's CRF funds or no later than 10 days prior to the submission date required by the State. County will review the final report for compliance and will upload the approved final report to OSBM's portal in accordance with the State's reporting requirements.

7. Repayment of Appropriated Funds. Any funds appropriated by the County and distributed to the Municipality that are found to have been utilized by Municipality for uses in violation of CRF shall be repaid by Municipality to the County within 30-days upon notice by the County in the event that the State or Federal government seeks repayment of funds from the County for a portion of the Municipality's allocation.

8. Access to Persons and Records. The County, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Municipality insofar as they relate to transactions and expenditures that are subject for reimbursement under CRF. The Municipality shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Agreement and are to be made available for examination upon request. Additional audit or reporting requirements may be required by the County, if in the County's opinion, such requirement is imposed by federal or state law or regulation.

MISCELLANEOUS

9. Notice. Any notice, consent, or other communication in connection with this Agreement shall be in writing and may be delivered in person, by mail, or by facsimile transmission (provided sender confirms notice by written copy). If hand-delivered, the notice shall be effective upon delivery. If by facsimile copy, the notice shall be effective when sent. If served by mail, the notice shall be effective three business days after being deposited in the United States Postal Service by certified mail, return receipt requested, addressed appropriately to the address set forth below:

To County

Paula Stewart
County Manager
Post Office Box 759
Lillington, North Carolina 27546

With copy to:

Christopher W. Appel
Senior County Staff Attorney
Post Office Box 238
Lillington, North Carolina 27546

To (City/Town)

10. Governing Law. The parties intend that this Agreement shall be governed by the law of the State of North Carolina.

11. Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

12. Severability. Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a court of competent jurisdiction, then: (a) such determination will not invalidate or render unenforceable any other provision of this Agreement; (b) such provision will be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the parties' entire agreement.

13. Entire Agreement; Amendments. This Agreement constitutes the entire contract between the parties, and this Agreement shall not be changed except in writing signed by both parties.

14. Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

15. Time. Time is of the essence in this Agreement and each and all of its provisions.

16. Liability of Directors, Officers and Agents. No director, officer, agent or employee of the County or Municipality shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

17. Confidentiality. The County will keep confidential and will not disclose or publish any of Municipality's trade secrets as defined in Section 132-1.2(1) of the North Carolina General

Statutes, will keep all records evidencing such trade secrets marked as “confidential trade secrets”, and will keep all such records segregated in the County’s files. If the County receives a request, subpoena or court order to disclose any information or records Municipality or its representatives have provided or provide in the future relating to this Agreement or the project described in this Agreement, the County will give Municipality prompt written notice of the request, subpoena or court order and will discuss any proposed disclosure of such information or records with Municipality (and, to the extent possible, give Municipality the opportunity to contest any disclosure of information or records Municipality believes should not be disclosed) before making any such disclosure.

18. E-Verify. Municipality shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Municipality shall also require any and all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

19. Counterparts. The individual signatories below have the expressed and implied authority on behalf of their respective Boards to execute this Agreement. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

IN WITNESS WHEREOF, the parties hereto have caused this Reimbursement Agreement to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective organization.

(City/Town)

County of Harnett

(authorized signer)

Howard Penny
Chairman

ATTEST:

ATTEST:

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Municipal Finance Director

County Finance Director

NEW BUSINESS

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners
From: Snow Bowden, Town Manager
Date: August 6, 2020
Subject: American Tower Update

The Town has received a request from American Tower in regards to our lease agreement with them for the cell tower near Erwin Public Works. At the moment, there is still only one tenant on this tower. Due to the current market conditions American Tower is requesting that we work with them to ensure the long term success of this tower. They are asking the Town to consider taking a 21% rent reduction payment and a decrease from our 3% annual rent escalation to a 2% annual rent escalation. Agreeing to these terms would be a major loss for the Town. But I do need to remind you that American Tower can pretty much walk away from this agreement at any time. We are not guaranteed payments through 2069. It is hard to say what the market will look like in 2069 so we should focus on the revenues through 2029. There is a \$5,000 signing bonus included in this offer to make up for the initial loss of revenue.

Attachments:

- Memo from American Tower
- Projected rent revenue with current agreement and with agreeing to these changes
- Contract with American Tower
- Contract extension through 2069 with American Tower.



Town Of Erwin NC
Attn: Snow Bowden

***Important Information Regarding Your Tower
Do Not Discard!***

Via Email: townmanager@erwin-nc.org

RE: Tower Site Number # 273036Z – ERWIN NC

Please see the updated 2020 Tower Site progress report and contract valuations below for your file and review. This report will serve to keep you informed of the Tower Site's status and relevant industry news. The intent is to better inform you of the current market value of your contract and the factors impacting that value. Keep in mind that a contract's value will fluctuate based on changes to the industry, technology, economic conditions and a tower's tenant activity.

Current Contract Terms:

Ground Lease Expiration Date: 3/02/2069

Rent: \$2,051.57 per month

Rent Escalator: 3% per year

Next Escalation Date: 3/3/2021

Based on the current market conditions, in order to ensure the long-term stability of this Tower Site we need to adjust the financial terms of this contract so that all parties can benefit. Your cooperation in one of the options below will strengthen the long-term viability of your tower. We therefore request your serious consideration of the proposal options below.

We recognize this can be a challenging request. The mergers and acquisitions in our industry as well as tenants actively negotiating reductions in their rent and escalation have driven changing market conditions. Working together we can find a path to a continued mutually beneficial relationship. The proposal below outlines the options available for the tower on your property. Upon approval of either option, we will provide the appropriate documents for your review and signature.

Option 1: Rent Reduction

- Reduction of the base rent payment by **21%**. Your **3% Annual** escalator will be reduced to **2% Annual** and will continue with the next escalation scheduled for March 2021. You will receive a \$5,000 signing bonus which will absorb much of the immediate loss.

Option 2: Cash out now at current rent for a one-time payment of \$435,000.00

I look forward to discussing the site and how American Tower can continue to strengthen our partnership on this tower. When you call please reference the site number above so I can serve you faster.

Respectfully,

Carolyn Srabian

The Lyle Company Lease Consultant
Authorized Vendor of American Tower

Carolyn Srabian | Office # 817-431-4383 | Fax # 916-266-7000 | Email csrabian@lyleco.com

"This letter is for discussion purposes only and expires 8/31/2020. The parties will not be bound in any respect until and unless a written agreement is signed by all parties"

Projected Revenues

Year	Current Rent	Proposed New Rent			
2018	\$17,926.38	\$17,926.38			
2019	\$24,555.23	\$24,555.23			
2020	\$25,291.92	\$23,073.17			
2021	\$25,991.44	\$20,366.24			
2022	\$26,771.24	\$20,773.50			
2023	\$29,253.82	\$21,612.78			
2024	\$30,131.52	\$22,045.04			
2025	\$30,131.52	\$22,485.92			
2026	\$31,035.52	\$22,933.64			
2027	\$31,966.62	\$23,391.94			
2028	\$32,925.66	\$23,859.74			
2029	\$33,914.58	\$24,336.96			
TOTAL	\$339,895.45	\$267,360.54		Loss	\$72,534.91

Total Through 2069 with current contract	\$3,303,972.99			Loss	\$1,515,352.52
Total Through 2069 with proposed change	\$1,788,620.47				

SITE LEASE WITH OPTION

THIS SITE LEASE WITH OPTION (this "Lease") is by and between Town of Erwin, a North Carolina municipal corporation ("Landlord") and T-Mobile South, LLC, a Delaware limited liability company ("Tenant").

1. Option to Lease.

(a) In consideration of the payment of two thousand five hundred and no/100 dollars (\$2,500.00) (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease a portion of the real property described in the attached Exhibit A (the "Property"), on the terms and conditions set forth herein (the "Option"). The Option shall be for an initial term of twelve (12) months, commencing on the Effective Date (as defined below) (the "Option Period"). The Option Period may be extended by Tenant for an additional twelve (12) months upon written notice to Landlord and payment of the sum of two thousand five hundred and no/100 dollars (\$2,500.00) ("Additional Option Fee") at any time prior to the end of the Option Period.

(b) During the Option Period and any extension thereof, and during the Initial Term and any Renewal Term (as those terms are defined below) of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises (as defined below) from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communications Commission ("FCC") ("Governmental Approvals"), including all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land-use permits. Landlord expressly grants to Tenant a right of access to the Property to perform any surveys, soil tests, and other engineering procedures or environmental investigations ("Tests") on the Property deemed necessary or appropriate by Tenant to evaluate the suitability of the Property for the uses contemplated under this Lease. During the Option Period and any extension thereof, and during the Initial Term or any Renewal Term of this Lease, Landlord agrees that it will not interfere with Tenant's efforts to secure other licenses and permits or authorizations that relate to other property. During the Option Period and any extension thereof, Tenant may exercise the Option by so notifying Landlord in writing, at Landlord's address in accordance with Section 12 hereof.

(c) If Tenant exercises the Option, then Landlord hereby leases to Tenant that portion of the Property sufficient for placement of the Antenna Facilities (as defined below), together with all necessary space and easements for access and utilities, as generally described and depicted in the attached Exhibit B (collectively referred to hereinafter as the "Premises"). The Premises, located at 819 North 14th Street, Erwin, NC 28339, comprises approximately ten thousand (10,000) square feet.

2. Term. The initial term of this Lease shall be five (5) years commencing on the date of exercise of the Option (the "Commencement Date"), and terminating at midnight on the last day of the initial term (the "Initial Term").

3. Renewal. Tenant shall have the right to extend this Lease for three (3) additional and successive five-year terms (each a "Renewal Term") on the same terms and conditions as set forth herein. This Lease shall automatically renew for each successive Renewal Term unless Tenant notifies Landlord, in writing, of Tenant's intention not to renew this Lease, at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

4. Rent.

(a) From and after the Commencement Date, Tenant shall pay Landlord or designee, as rent, one thousand six hundred sixty-six and 67/100 dollars (\$1,666.67) per month ("Rent"). The first payment of Rent shall be due within twenty (20) days following the Commencement Date and shall be prorated based on the days remaining in the month following the Commencement Date, and thereafter Rent will be payable monthly in advance by the fifth day of each month to Landlord at the address specified in Section 12 below. If this Lease is terminated for any reason (other than a default by Tenant) at a time other than on the last day of a month, Rent shall be prorated as of the date of termination and all prepaid Rent shall be immediately refunded to Tenant. Landlord, its successors, assigns and/or designee, if any, will submit to Tenant any documents required by Tenant in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

(b) During the Initial Term and any Renewal Terms, monthly Rent shall be adjusted, effective on the first day of each year of the Initial or Renewal Term, and on each such subsequent anniversary of the Initial or Renewal Term as the case may be, to an amount equal to one hundred two percent (102%) of the monthly Rent in effect immediately prior to the adjustment date.

5. Permitted Use. The Premises may be used by Tenant for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, including, without limitation, tower and base, antennas, microwave dishes, equipment shelters and/or cabinets and related activities. There will be no permanent generator on the site, but temporary generators are allowed in the case of a loss, or anticipated loss, of power.

6. Interference. Tenant shall not use the Premises in any way which interferes with the use of the Property by Landlord or lessees or licensees of Landlord with rights in the Property prior in time to Tenant's (subject to Tenant's rights under this Lease, including, without limitation,

non-interference). Similarly, Landlord shall not use, nor shall Landlord permit its lessees, licensees, employees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

7. Improvements; Utilities; Access.

(a) Tenant shall have the right, at its expense, to erect and maintain on the Premises improvements, personal property and facilities necessary to operate its communications system, including, without limitation, radio transmitting and receiving antennas, microwave dishes, tower and base, temporary (but not permanent) generators, equipment shelters and/or cabinets and related cables and utility lines and a location based system, as such location based system may be required by any county, state or federal agency/department, including, without limitation, additional antenna(s), coaxial cable, base units and other associated equipment (collectively, the "Antenna Facilities"). Tenant shall have the right to alter, replace, expand, enhance and upgrade the Antenna Facilities at any time during the term of this Lease. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. Landlord acknowledges that it shall neither interfere with any aspects of construction nor attempt to direct construction personnel as to the location of or method of installation of the Antenna Facilities and the Easements (as defined below). The Antenna Facilities shall remain the exclusive property of Tenant and shall not be considered fixtures. Tenant shall have the right to remove the Antenna Facilities at any time during and upon the expiration or termination of this Lease.

(b) Tenant, at its expense, may use any and all appropriate means of restricting access to the Antenna Facilities, including, without limitation, the construction of a fence.

(c) Tenant shall, at Tenant's expense, keep and maintain the Antenna Facilities now or hereafter located on the Property in commercially reasonable condition and repair during the term of this Lease, normal wear and tear and casualty excepted. Upon termination or expiration of this Lease, the Premises shall be returned to Landlord in good, usable condition, normal wear and tear and casualty excepted. Within thirty (30) days of the expiration or earlier termination of this Lease, Tenant, at its sole cost and expense, shall remove the Antenna Facilities (including any foundations that it has placed upon the Premises up to one (1) foot below grade level), repair any damage to the Premises caused by Tenant, and restore the Premises to substantially the same condition as it was in on the Commencement Date, normal wear and tear and casualty excepted. Immediately following the Commencement Date hereunder, Tenant agrees to obtain a bond, in an amount to be determined by Tenant in its reasonable discretion, payable to Landlord, from a bond company duly licensed to do business in the state in which the Property is located in favor of Landlord (the "Bond"). The Bond shall secure Tenant's removal of its equipment from the Site following the expiration or earlier termination of the Lease. Tenant agrees to deliver to Landlord a copy of the Bond within a reasonable time following Tenant's receipt thereof. However, should the Town of Erwin require Tenant to obtain a similar Bond, Landlord shall not require Tenant to post a duplicative Bond. In the event Tenant fails to remove its equipment within such thirty (30) day period, the Landlord shall provide written notice stating that Tenant has failed to remove its Antenna Facilities (the "Abandonment Notice"). If Tenant fails to remove its Antenna Facilities within thirty (30) days after receipt of the Abandonment Notice, any portion of the Antenna Facilities remaining at the Premises shall be deemed to be abandoned, and, in addition to Landlord's right to charge Tenant for the cost of removing such Antenna Facilities and restoring any damage to the Property, Landlord shall have the right to retain or dispose of such Antenna Facilities, as if such Antenna Facilities were the property of Landlord.

(d) Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Property (including, but not limited to, the installation of temporary emergency power generators). Landlord agrees to use reasonable efforts in assisting Tenant to acquire necessary utility service. Tenant shall, wherever practicable, install separate meters for utilities used on the Property by Tenant. In the event separate meters are not installed, Tenant shall pay the periodic charges for all utilities attributable to Tenant's use, at the rate charged by the servicing utility. Landlord shall diligently correct any variation, interruption or failure of utility service.

(e) As partial consideration for Rent paid under this Lease, Landlord hereby grants Tenant easements on, under and across the Property for ingress, egress, utilities and access (including access for the purposes described in Section 1) to the Premises adequate to install and maintain utilities, including, but not limited to, the installation of power and telephone service cable, and to service the Premises and the Antenna Facilities at all times during the Initial Term of this Lease and any Renewal Term (collectively, the "Easements"). The Easements provided hereunder shall have the same term as this Lease.

(f) Tenant shall have 24-hours-a-day, 7-days-a-week access to the Premises at all times during the Initial Term of this Lease and any Renewal Term, at no charge to Tenant.

(g) Tenant shall maintain and repair all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow vehicular and pedestrian access at all times, at its sole expense, except for any damage to such roadways caused by Landlord.

8. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(a) upon thirty (30) days' written notice by Landlord if Tenant fails to cure a default for payment of amounts due under this Lease within such thirty (30) day period;

(b) immediately upon written notice by Tenant if Tenant notifies Landlord of any unacceptable results of any Tests prior to Tenant's installation of the Antenna Facilities on the Premises, or if Tenant does not obtain, maintain, or otherwise forfeits or cancels any license (including, without limitation, an FCC license), permit or any Governmental Approval necessary to the installation and/or operation of the Antenna Facilities or Tenant's business;

(c) upon thirty (30) days' written notice by Tenant if Tenant determines that the Property or the Antenna Facilities are inappropriate or unnecessary for Tenant's operations for economic or technological reasons;

(d) immediately upon written notice by Tenant if the Premises or the Antenna Facilities are destroyed or damaged so as in Tenant's reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant. If Tenant elects to continue this Lease, then all Rent shall abate until the Premises and/or the Antenna Facilities are restored to the condition existing immediately prior to such damage or destruction, but in no event shall rent abate for more than ninety (90) days; or

(e) at the time title to the Property transfers to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

9. Default and Right to Cure. Notwithstanding anything contained herein to the contrary and without waiving any other rights granted to it at law or in equity, each party shall have the right, but not the obligation, to terminate this Lease on written notice pursuant to Section 12 hereof, to take effect immediately, if the other party fails to perform any covenant or commits a material breach of this Lease and fails to diligently pursue a cure thereof to its completion after thirty (30) days' written notice specifying such failure of performance or default.

10. Taxes. Landlord shall pay when due all real property taxes for the Property, including the Premises. In the event that Landlord fails to pay any such real property taxes or other fees and assessments, Tenant shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. Notwithstanding the foregoing, Tenant shall pay any personal property tax, real property tax or any other tax or fee which is directly attributable to the presence or installation of Tenant's Antenna Facilities, only for so long as this Lease remains in effect. If Landlord receives notice of any personal property or real property tax assessment against Landlord, which may affect Tenant and is directly attributable to Tenant's installation, Landlord shall provide timely notice of the assessment to Tenant sufficient to allow Tenant to consent to or challenge such assessment, whether in a Court, administrative proceeding, or other venue, on behalf of Landlord and/or Tenant. Further, Landlord shall provide to Tenant any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 10. In the event real property taxes are assessed against Landlord or Tenant for the Premises or the Property, Tenant shall have the right, but not the obligation, to terminate this Lease without further liability after thirty (30) days' written notice to Landlord, provided Tenant pays any real property taxes assessed as provided herein.

11. Insurance and Subrogation and Indemnification.

(a) Tenant will maintain Commercial General Liability Insurance in amounts of One Million and no/100 Dollars (\$1,000,000.00) per occurrence and Two Million and no/100 Dollars (\$2,000,000.00) aggregate. Tenant may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(b) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other. Landlord and Tenant shall give their respective insurance carriers notice of these waivers and shall secure an endorsement from each carrier to the effect that the waivers given in this Section 11(b) shall not adversely affect or impair the policies of insurance or prejudice the right of the named insured on the policy to recover thereunder. In event that this waiver adversely affects or impairs the policies of insurance or prejudices the right of the named insured on the policy to recover thereunder, this waiver provision shall be void.

(c) Subject to the property insurance waivers set forth in subsection 11(b), Landlord and Tenant each agree to indemnify and hold harmless the other party from and against any and all claims, damages, costs and expenses, including reasonable attorney fees, to the extent caused by or arising out of the negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants and/or subtenants of the indemnifying party, or a breach of any obligation of the indemnifying party under this Lease. The indemnifying party's obligations under this section are contingent upon its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party and the indemnified party's granting it the right to control the defense and settlement of the same.

(d) Notwithstanding anything to the contrary in this Lease, the parties hereby confirm that the provisions of this Section 11 shall survive the expiration or termination of this Lease.

(e) Tenant shall not be responsible to Landlord, or any third-party, for any claims, costs or damages (including, fines and penalties) attributable to any pre-existing violations of applicable codes, statutes or other regulations governing the Property.

12. Notices. All notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

If to Tenant, to:

T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attn: PCS Lease Administrator

With a copy to:

Attn: Legal Dept.

And with a copy to:

T-Mobile South, LLC
4 Sylvan Way
Parsippany, NJ 07054-3801
Attn: Lease Administration Manager

With a copy to:

Attn: Legal Dept.

If to Landlord, to:

Town of Erwin
PO Box 459
Erwin, NC 28339

Send Rent payments to:

Town of Erwin
PO Box 459
Erwin, NC 28339

13. Quiet Enjoyment, Title and Authority. As of the Effective Date and at all times during the Initial Term and any Renewal Terms of this Lease, Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute and perform this Lease; (ii) Landlord has good and unencumbered fee title to the Property free and clear of any liens or mortgages, except those heretofore disclosed in writing to Tenant and which will not interfere with Tenant's rights to or use of the Premises; (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord; and (iv) Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

14. Environmental Laws. Landlord represents that it has no knowledge of any substance, chemical or waste (collectively, "Hazardous Substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Landlord and Tenant shall not introduce or use any Hazardous Substance on the Property in violation of any applicable law. Landlord shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental laws, all spills or other releases of any Hazardous Substance not caused by Tenant, that have occurred or which may occur on the Property. Each party agrees to defend, indemnify and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability (collectively, "Claims") including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that the indemnitee may suffer or incur due to the existence of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment (collectively, "Actions"), that relate to or arise from the indemnitor's activities on the Property. Landlord agrees to defend, indemnify and hold Tenant harmless from Claims resulting from Actions on the Property not caused by Tenant. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. This Section 14 shall survive the termination or expiration of this Lease.

15. Assignment and Subleasing. Tenant shall have the right to assign or otherwise transfer this Lease and the Easements (as defined above) to any person or business entity which: (i) is FCC licensed to operate a wireless communications business; (ii) is a parent, subsidiary, or affiliate of Tenant or Tenant's parent; (iii) is merged or consolidated with Tenant; (iv) acquires more than fifty percent (50%) of either an ownership interest in Tenant or the assets of Tenant in the "Metropolitan Trading Area" or "Basic Trading Area" (as those terms are defined by the FCC) in which the Property is located; and/or (v) upon written approval of landlord, to any entity or company whose primary business function is the management or operation of wireless communications real estate or leases, which approval shall not be unreasonably withheld, conditioned or delayed. Upon such assignment, Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease and all obligations hereunder. Tenant may sublease the Premises, upon written notice to Landlord. Tenant may otherwise assign this Lease upon written approval of Landlord, which approval shall not be unreasonably delayed, withheld, conditioned or denied.

Landlord shall have the right to assign or otherwise transfer this Lease and the Easements granted herein, upon written notice to Tenant except for the following; any assignment or transfer of this Lease which is separate and distinct from a transfer of Landlord's entire right, title and interest in the Property, shall require the prior written consent of Tenant which may be withheld in Tenant's sole discretion. Upon Tenant's receipt of (i) an executed deed or assignment and (ii) an IRS Form W-9 from assignee, and subject to Tenant's consent, if required, Landlord shall be relieved of all liabilities and obligations hereunder and Tenant shall look solely to the assignee for performance under this Lease and all obligations hereunder.

Additionally, notwithstanding anything to the contrary above, Landlord or Tenant may, upon notice to the other, grant a security interest in this Lease (and as regards the Tenant, in the Antenna Facilities), and may collaterally assign this Lease (and as regards the Tenant, in the Antenna Facilities) to any mortgagees or holders of security interests, including their successors or assigns (collectively "Secured Parties"). In such event, Landlord or Tenant, as the case may be, shall execute such consent to leasehold financing as may reasonably be required by Secured Parties.

16. Successors and Assigns. This Lease and the Easements granted herein shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

17. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof, which shall be deemed personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Landlord gives Tenant and Secured Parties the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Tenant's and/or Secured Party's sole discretion and without Landlord's consent.

18. Miscellaneous.

(a) The prevailing party in any litigation arising hereunder shall be entitled to reimbursement from the other party of its reasonable attorneys' fees and court costs, including appeals, if any.

(b) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements with respect to the subject matter and property covered by this Lease. Any amendments to this Lease must be in writing and executed by both parties.

(c) Landlord agrees to cooperate with Tenant in executing any documents necessary to protect Tenant's rights in or use of the Premises. A Memorandum of Lease in substantially the form attached hereto as Exhibit C may be recorded in place of this Lease by Tenant.

(d) In the event the Property is encumbered by a mortgage or deed of trust, Landlord agrees, upon request of Tenant, to obtain and furnish to Tenant a non-disturbance and attornment agreement for each such mortgage or deed of trust, in a form reasonably acceptable to Tenant.

(e) Tenant may obtain title insurance on its interest in the Premises. Landlord agrees to execute such documents as the title company may require in connection therewith.

(f) This Lease shall be construed in accordance with the laws of the state in which the Property is located, without regard to the conflicts of law principles of such state.

(g) If any term of this Lease is found to be void or invalid, the remaining terms of this Lease shall continue in full force and effect. Any questions of particular interpretation shall not be interpreted against the drafter, but rather in accordance with the fair meaning thereof. No provision of this Lease will be deemed waived by either party unless expressly waived in writing by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.

(h) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacities as indicated.

(i) This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.


(j) All Exhibits referred to herein and any Addenda are incorporated herein for all purposes. The parties understand and acknowledge that Exhibits A and B may be attached to this Lease and the Memorandum of Lease, in preliminary form. Accordingly, the parties agree that upon the preparation of final, more complete exhibits, Exhibits A and/or B, as the case may be, may be replaced by Tenant with such final, more complete exhibit(s).

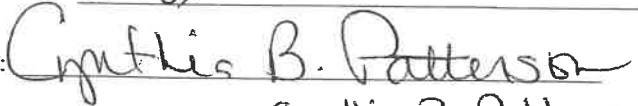
(k) If either party is represented by any broker or any other leasing agent, such party is responsible for all commission fee or other payment to such agent, and agrees to indemnify and hold the other party harmless from all claims by such broker or anyone claiming through such broker.


(l) Tenant will provide a landscape buffer on the Premises in accordance with the ordinances for the Town of Erwin.

The effective date of this Lease is the date of execution by the last party to sign (the "Effective Date").

LANDLORD: Town of Erwin

By: 
Printed Name: Bryan Thompson
Title: Town Manager
Date: 3.3.09

ATTEST: 
Printed Name: ~~Ramona S. Addison~~ Cynthia B. Patterson
Title: Town Clerk

TENANT: T-Mobile South, LLC 

By: _____
Printed Name: Todd Wheeler
Title: Area Director, Network Engineering & Operations
Date: 2/20/09

T-Mobile Legal Approval

**EXHIBIT A
Legal Description**

The Property is legally described as follows:

All that certain lot or parcel of land located in Duke Township in the Town of Erwin, Harnett County, State of North Carolina and being more particularly described as follows:

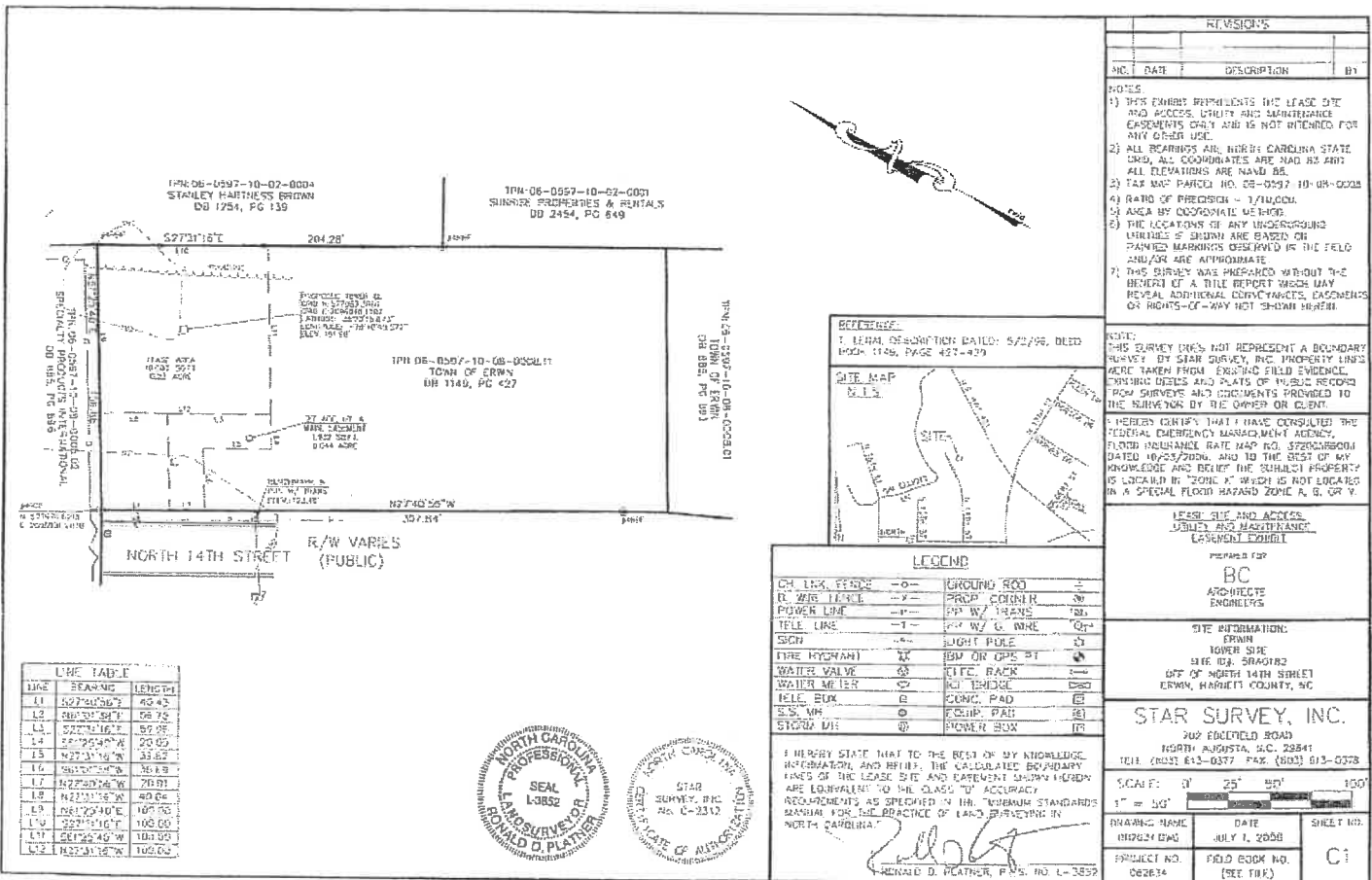
COMMENCING at an existing iron pipe at the Point of Intersection of the Northern R/W margin of West "N" Street, 60' R/W and the Eastern R/W margin of North 14th Street, 50' R/W in the Town of Erwin, North Carolina, said commencing point being the Southwest corner of Walter B. McNeill (Book 471, Page 22) now or formerly; thence leaving said point of intersection and running with the Eastern R/W margin of North 14th Street, North 03 deg. 02 min. 34 sec. East 468.58' to the Point of Curvature of a simple circular curve to the left having a radius distance of 491.76', an Arc Distance of 204.96' with a Chord Bearing and Distance of North 08 deg. 53 min. 50 sec. West, 203.48' to a point on the Eastern R/W margin

of North 14th Street, the Point of Beginning; thence continuing to run with said R/W margin a simple circular curve to the left having a radius distance of 491.76', an arc distance of 26.80' with a chord bearing and distance of North 22 deg. 23 min. 57 sec. West, 26.80' to the point of tangency on said R/W margin; thence continuing to run with said R/W margin North 23 deg. 57 min. 36 sec. West, 306.25' to the point of intersection of Eastern R/W margin of North 14th Street and the Southern boundary of Specialty Products International, Ltd. (Book 885, Page 896); thence leaving the Eastern R/W margin of North 14th Street and running with the Southern boundary of Specialty Products International, Ltd., North 65 deg. 04 min. 43 sec. East, 157.03' to an existing iron stake in the Western boundary of Register-Avery (739/482-485) now or formerly; thence running with said Western boundary South 23 deg. 57 min. 36 sec. East, 336.11' to a point in said Western boundary; thence leaving the Western boundary of Register-Avery and running with a Northern boundary of the Town of Erwin (885/893), South 66 deg. 11 min. 55 sec. West, 157.74' to the POINT OF BEGINNING and containing 1.2061 Acres (52,539 Square Feet)±.

And being the same property conveyed to the Town of Erwin in deed appearing of recording in Book 1149, at page 427 in the office of the Register of Deeds of Hamett County, North Carolina.

EXHIBIT B

The location of the Premises within the Property (together with access and utilities) is more particularly described and depicted as follows:



Site Number: 5RA0182-A
 Site Name: Erwin
 Market: Raleigh

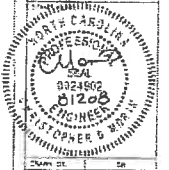
03/20/12

THIS DRAWING IS THE PROPERTY OF T-MOBILE. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF T-MOBILE. ANY UNAUTHORIZED USE OF THIS DRAWING IS STRICTLY PROHIBITED. T-MOBILE ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE LOCAL JURISDICTION. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE LOCAL JURISDICTION. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE LOCAL JURISDICTION.

BC
architects
engineers

500 SOUTH MAIN STREET
RALEIGH, NC 27601
TEL: 704.771.1111
FAX: 704.771.1112
WWW.BCARCHITECTS.COM

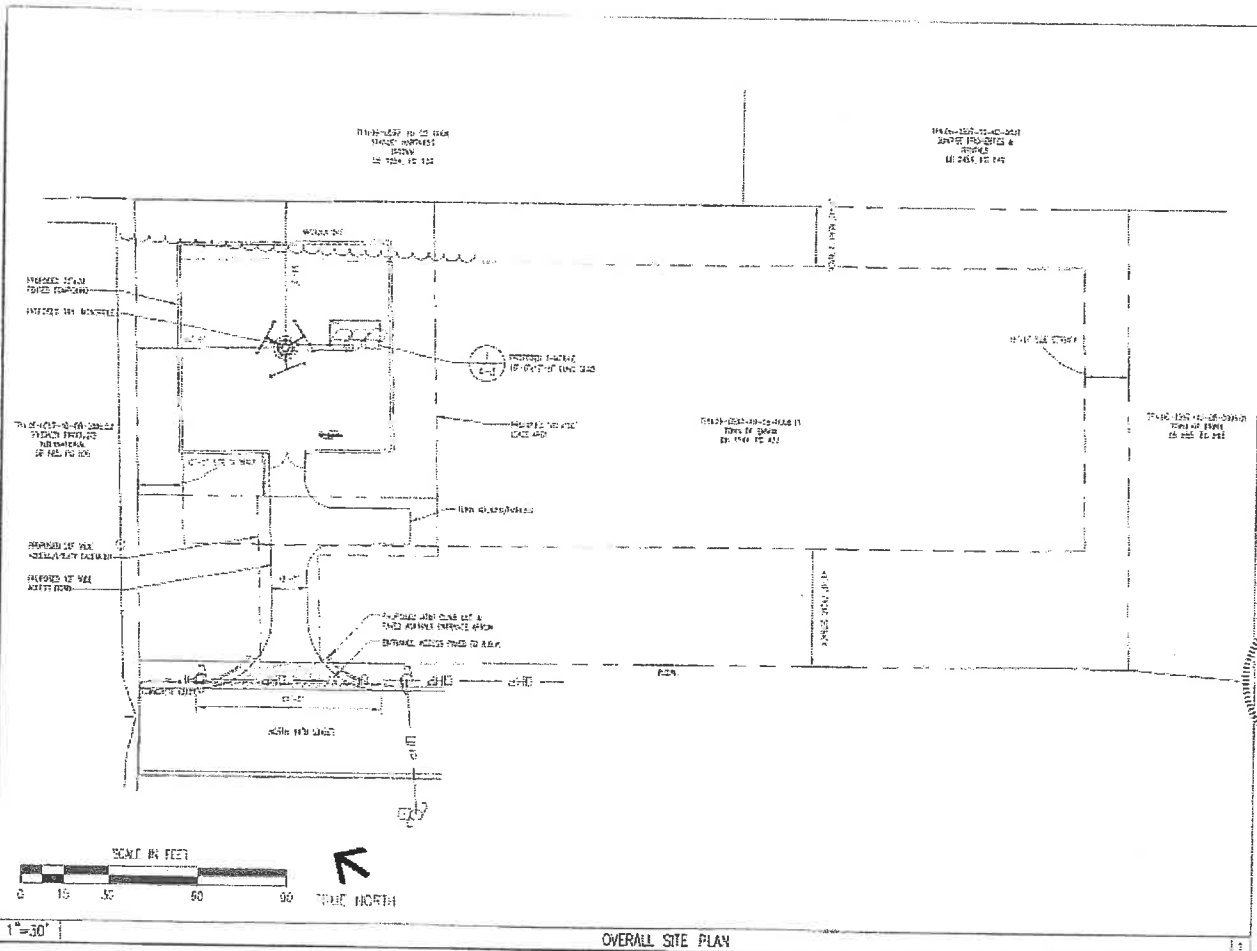
SITE OWNER
SRA0182-A
ERWIN
615 AVENUE
ERWIN, NC 28329



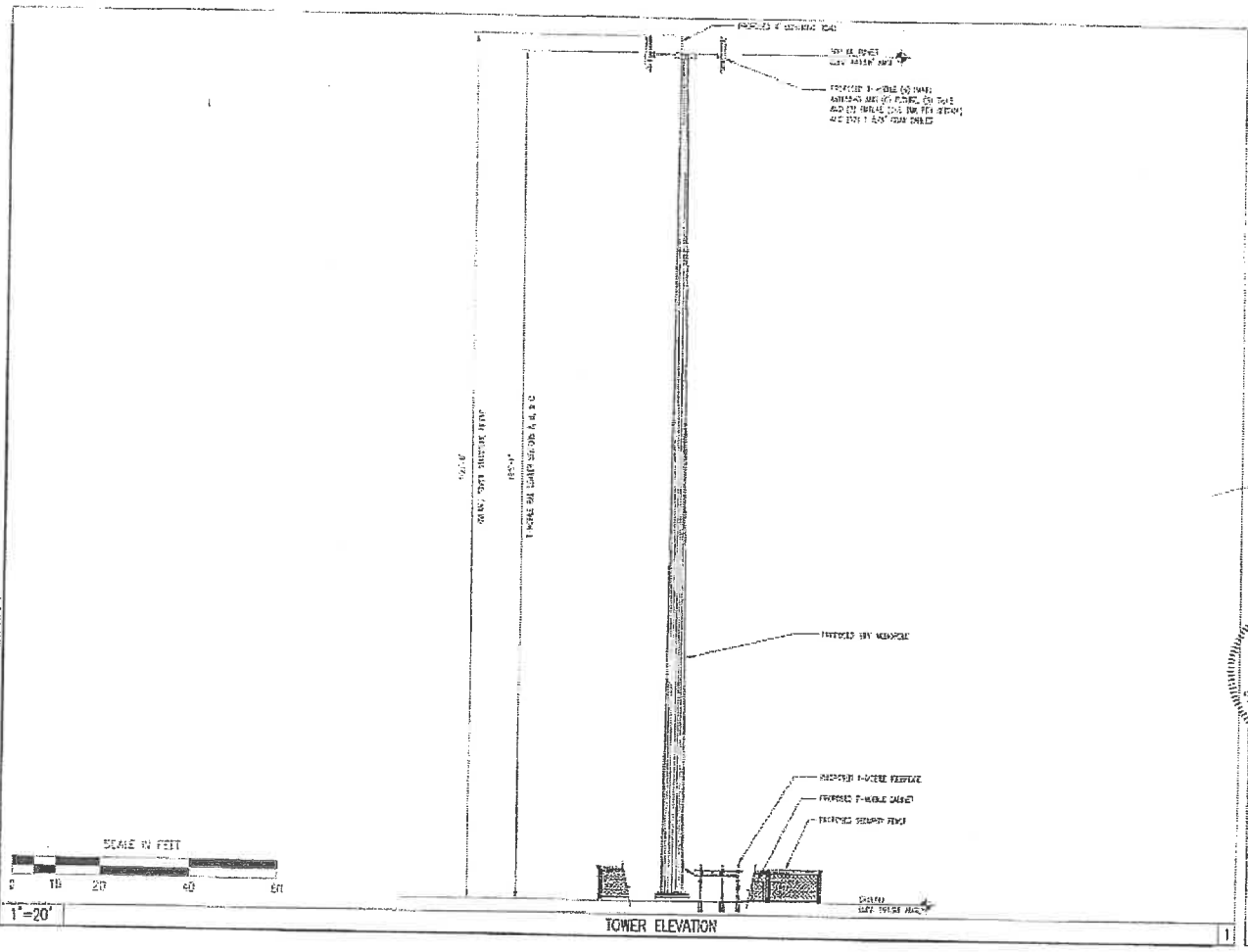
DATE OF ISSUE	03/20/12
DATE OF REVISION	03/20/12
DATE OF APPROVAL	03/20/12
DATE OF CANCELLATION	

OVERALL SITE PLAN

SHEET NO.	1	TOTAL SHEETS	2
SCALE	A-0	SCALE	A



Site Number: SRA0182-A
Site Name: Erwin
Market: Raleigh



T-Mobile

IS A DIVISION OF

THE T-MOBILE SYSTEMS COMPANY
A DIVISION OF SBC COMMUNICATIONS INC.
12500 WESTHOPE AVENUE, SUITE 100
DALLAS, TEXAS 75244-3128
TEL: 972.342.7000
WWW.T-MOBILE.COM

BC
architects
engineers

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DALLAS, TEXAS 75244-3128
TEL: 972.342.7000
WWW.T-MOBILE.COM

PROVISION
NO. DESCRIPTION BY DATE

1. PRELIMINARY DESIGN OF TOWER
2. PERMITTING
3. CONSTRUCTION
4. COMPLETION

DATE: 05/11/09
PROJECT: 5RA0182-A
SITE: ERWIN
THE ADDRESS: 515 N 14TH STREET
SMITH, NC 28782

REGISTERED PROFESSIONAL ENGINEER
NORTH CAROLINA
NO. 24362
6/12/08
STEPHEN T. WALKER

Drawn by: [blank]
Checked by: [blank]
Date: 05/11/09
Scale: [blank]
Title: TOWER ELEVATION

TOWER ELEVATION

SHEET NUMBER: A-2 REV: A

Site Number: 5RA0182-A
Site Name: Erwin
Market: Raleigh

EXHIBIT C

**Memorandum
of
Lease**

MEMORANDUM OF LEASE

Assessor's Parcel Number: 06-0597-10-08-0008.11

Between Town of Erwin ("Landlord") and T-Mobile South, LLC ("Tenant")

A Site Lease with Option (the "Lease") by and between Town of Erwin, a North Carolina municipal corporation, ("Landlord") and T-Mobile South, LLC, a Delaware Limited liability company ("Tenant") was made regarding a portion of the following property:

See Attached Exhibit "A" incorporated herein for all purposes

The Option is for a term of twelve (12) months after the Effective Date of the Lease (as defined under the Lease), with up to one additional twelve (12) month renewal ("Optional Period").

The Lease is for a term of five (5) years and will commence on the date as set forth in the Lease (the "Commencement Date"). Tenant shall have the right to extend this Lease for three (3) additional and successive five-(5) year terms. The Lease including all extensions shall expire on _____.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

LANDLORD: Town of Erwin

By: _____
Printed Name: Bryan Thompson
Title: Town Manager
Date: _____

ATTEST: _____
Printed Name: Pamela S. Addison
Title: Town Clerk

TENANT: T-Mobile South, LLC

By: _____
Printed Name: Todd Wheeler
Title: Area Director, Network Engineering & Operations
Date: _____

[Notary block for Landlord]

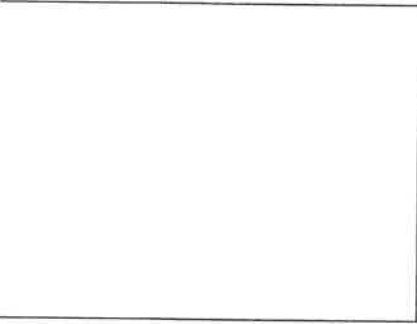
[Landlord Notary block for a Corporation, Partnership ,or Limited Liability Company]

STATE OF NORTH CAROLINA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ by Bryan Thompson, Town Manager of the Town of Erwin a North Carolina municipal corporation, and attested by Pamela S. Addison, its Town Clerk on behalf of said Town of Erwin.

Dated: _____

Notary Public
Print Name _____
My commission expires _____



(Use this space for notary stamp/seal)

**Memorandum of Lease Exhibit A
Legal Description**

The Property is legally described as follows:

Property description attached hereto and incorporated by reference.

THE FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Site Lease with Option (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **Town of Erwin NC**, a North Carolina municipal corporation, ("**Landlord**") and **American Towers LLC f/k/a American Towers, Inc.**, a Delaware limited liability company ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Site Lease with Option dated March 3, 2009 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)**, payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before April 30, 2018; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on March 3, 2009 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on March 2, 2029. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of eight (8) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate this Lease only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to "**Renewal Term**" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and

Site No: 273036
Site Name: Erwin NC

OLLAMIDEI
40

return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

3. **Rent and Escalation.** The Parties acknowledge and agree that the rent payable from Tenant to Landlord under the Lease is **One Thousand Nine Hundred Ninety-One and 82/100 Dollars (\$1,991.82.00)** per month (the "**Rent**"). Commencing on March 3, 2019 and on each successive annual anniversary thereof, Rent due under the Lease shall increase by an amount equal to **three percent (3%)** of the then current Rent. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to **Town of Erwin NC**. The escalations in this Section shall be the only escalations to the Rent and any/all rental escalations otherwise contained in the Lease are hereby null and void and of no further force and effect.
4. **Deletions.** The Parties hereby acknowledge and agree that Section 15 of Lease is deleted in its entirety.
5. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in this Lease, as modified by this Amendment. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
6. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor (as herein defined). If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") or (ii) assign

all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "Offer"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

7. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; and (vi) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment.
8. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.
9. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: Town of Erwin NC, Attn: Snow Bowden, Town Manager, PO Box 459, Erwin, NC 28339; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116.

Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

10. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.
11. **Governing Law.** Notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
12. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
13. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "**Security Interest**") in Tenant's interest in this Lease, as amended, and all of Tenant's property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's mortgagee ("**Tenant's Mortgagee**") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "**Holder**") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.
14. **Taxes.** The Parties hereby agree that Section 10 of the Lease is deleted in its entirety. During the term of the Lease, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from

Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

LANDLORD:

Town of Erwin NC

a North Carolina municipal corporation,

Signature: *Snow Bowden*

Print Name: **Snow Bowden**

Title: **Town Manager**

Date: 3/19/2018

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

American Towers LLC f/k/a American Towers, Inc.
a Delaware limited liability company


Signature: 
Print Name: Shawn Lanier
Title: Vice President - Legal
Date: 3-29-2018

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

SITUATE IN THE CITY OF HARNETT, TOWNSHIP OF DUKE, COUNTY OF HARNETT, STATE OF NORTH CAROLINA:

COMMENCING AT AN EXISTING IRON PIPE AT THE POINT OF INTERSECTION OF THE NORTHERN R/W MARGIN OF WEST "N" STREET, 60' R/W AND THE EASTERN R/W MARGIN OF NORTH 14TH STREET, 50' R/W IN THE TOWN OF ERWIN, NORTH CAROLINA, SAID COMMENCING POINT BEING THE SOUTHWEST CORNER OF WALTER B. MCNEIL (BOOK 471, PAGE 22) NOW OR FORMERLY; THENCE LEAVING SAID POINT OF INTERSECTION AND RUNNING WITH THE EASTERN R/W MARGIN OF NORTH 14TH STREET, NORTH 03 DEG. 02 MIN. 34 SEC. EAST 468.58' TO THE POINT OF CURVATURE OF A SIMPLE CIRCULAR CURVE TO THE LEFT HAVING A RADIUS DISTANCE OF 491.76', AN ARC DISTANCE OF 204.96' WITH A CHORD BEARING AND DISTANCE OF NORTH 08 DEG. 53 MIN. 50 SEC. WEST, 203.48' TO A POINT ON THE EASTERN R/W MARGIN OF NORTH 14TH STREET, THE POINT OF BEGINNING; THENCE CONTINUING TO RUN WITH SAID R/W MARGIN A SIMPLE CIRCULAR CURVE TO THE LEFT HAVING A RADIUS DISTANCE OF 491.76', AN ARC DISTANCE OF 26.80' WITH A CHORD BEARING AND DISTANCE OF NORTH 22 DEG. 23 MIN. 57 SEC. WEST, 26.80' TO THE POINT OF TANGENCY ON SAID R/W MARGIN; THENCE CONTINUING TO RUN WITH SAID R/W NORTH 23 DEG. 57 MIN. 36 SEC. WEST, 306.25' TO THE POINT OF INTERSECTION OF EASTERN R/W MARGIN OF NORTH 14TH STREET AND THE SOUTHERN BOUNDARY OF SPECIALTY PRODUCTS INTERNATIONAL, LTD. (BOOK 885, PAGE 896); THENCE LEAVING THE EASTERN R/W MARGIN OF NORTH 14TH STREET AND RUNNING WITH THE SOUTHERN BOUNDARY OF SPECIALTY PRODUCTS INTERNATIONAL, LTD., NORTH 65 DEG. 04 MIN. 43 SEC. EAST, 157.03' TO AN EXISTING IRON STAKE IN THE WESTERN BOUNDARY OF REGISTER-AVERY (739/482-485) NOW OR FORMERLY; THENCE RUNNING WITH SAID WESTERN BOUNDARY SOUTH 23 DEG. 57 MIN. 36 SEC. EAST, 336.11' TO A POINT IN SAID WESTERN BOUNDARY; THENCE LEAVING THE WESTERN BOUNDARY OF REGISTER-AVERY AND RUNNING WITH A NORTHERN BOUNDARY OF THE TOWN OF ERWIN (885/393), SOUTH 66 DEG. 11 MIN. 55 SEC. WEST, 157.74' TO THE POINT OF BEGINNING AND CONTAINING 1.2061 ACRES ± (52,539 SQUARE FEET)

Being situated in Harnett County, State of North Carolina, and being Parcel Number: 0605971008000811

EXHIBIT A (Continued)

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease (10,000 square feet); (ii) Tenant's (and Tenant's customers') existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way.