

Prepared by: Kevin Wellman
After recording return to:
SBA 2012 TC Assets, LLC
5900 Broken Sound Parkway NW
Boca Raton, FL 33487
Ph: 1-800-487-7483 ext. 9253

ENCROACHMENT AGREEMENT

State of Minnesota)
) s.s.
County of Ramsey)

THIS ENCROACHMENT AGREEMENT (“Agreement”) is made and entered into as of the ____ day of _____, 2014, by and between the City of Saint Paul, Minnesota, having an address of City Hall, 15 W. Kellogg Blvd., St. Paul, MN 55102 (the "City") and SBA 2012 TC Assets, LLC, a Delaware limited liability company, doing business at 5900 Broken Sound Parkway NW, Boca Raton, FL 33487-2797 (“SBA”).

1. **BACKGROUND.** SBA is the current Lessee under an Option and Site Lease Agreement originally by and between 425 Minnehaha Properties, as original Lessor, and U S West Wireless, L.L.C., a Delaware limited liability company, as original Lessee, dated November 22, 1999, which was assigned to Sprint Spectrum L.P., a Delaware limited liability company, as Lessee, by an Assignment and Assumption Agreement dated September 22, 2005, and as further assigned to Tower Entity 2 LLC, a Delaware limited liability company, as Lessee, by an Assignment and Assumption of Lease dated September 23, 2008. On September 23, 2008, Tower Entity 2 LLC merged into TowerCo Assets, LLC, a Delaware limited liability company (“TowerCo”)(these instruments together constituting the “Agreement”). On July 13, 2009, MS & S Enterprises, LLC, a Minnesota limited liability company, successor-in-interest to 425 Minnehaha Properties, entered into a Memorandum of Agreement with TowerCo to give record notice of the Agreement. On October 1, 2012, TowerCo filed an Amended and Restated Certificate of Formation with the Secretary of State of the State of Delaware changing its name to SBA 2012 TC Assets, LLC.

Pursuant to the Agreement, SBA constructed improvements upon the property that was the object of the Agreement, as more fully described under Exhibit A hereof (the “Tower Site”). In the course of the construction some improvements encroached upon and continue to encroach upon the neighboring property to the North of the Tower Site (the “Neighboring Site”), as more specifically described under Exhibit B hereof, which property is owned by the City. More specifically, a concrete slab encroaches approximately 0.35 feet into the Neighboring Site, and a portion of the concrete tower base encroaches approximately 0.67 feet into the Neighboring Site (together hereinafter referred to as the “acceptable encroachments”), and a 6-foot chain link fence encroaches at varying widths into the Neighboring Site (hereinafter referred to as the

“unacceptable encroachment”). The City is willing to allow the acceptable encroachments under certain terms and conditions as specified in this Agreement. SBA agrees to relocate the unacceptable encroachment so that it no longer encroaches into the Neighboring Site.

2. **ENCROACHMENT AUTHORIZATION.** The City hereby approves the acceptable encroachments as set forth above, subject to the conditions set forth in this Agreement. No further encroachments will be permitted without prior written approval of the City.

3. **MAINTENANCE AND REPAIR.** SBA shall be solely responsible for all costs related to the maintenance, repair and replacement of the aforementioned concrete slab and concrete tower base, including any damage to these improvements caused in whole or in part by the City’s use, maintenance and repair of the Neighboring Site. This maintenance agreement is the obligation of SBA, and its successors and assigns.

4. **HOLD HARMLESS AND INDEMNITY.** In consideration of being allowed to encroach into the City’s Neighboring Site, SBA and its successors and assigns, hereby agree to indemnify and hold the City harmless from all costs and expenses, claims and liability, including attorney’s fees, related to or arising out of this approval of the aforementioned encroachments.

5. **TERMINATION.** The City may, at its sole discretion, terminate this Agreement at any time by giving SBA or its successors or assigns thirty (30) days advance written notice. SBA or its successors or assigns shall remove the encroaching improvements and any related encroachments upon the effective date of the termination of this Agreement. If SBA or its successors or assigns fails to do so, the City may remove the encroachments.

6. **RECORDING.** This Agreement will be recorded in the public records of the county wherein the Tower Site and Neighboring Site lie.

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

WITNESSES:

the City of St. Paul, Minnesota

Print Name:

By: _____
Name:
Title:

Print Name:

Print Name:

By: _____
Name:
Title:

Print Name:

State of
County of

On this ___ day of _____ in the year 2014 before me, _____ (name of Notary), a Notary Public in and for said state, personally appeared , known to me to be the persons who executed the within Encroachment Agreement and acknowledged to me that he/she executed the same for the purposes therein stated.

In Witness Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

(SEAL)

SBA 2012 TC Assets, LLC, a Delaware limited liability company

WITNESSES:

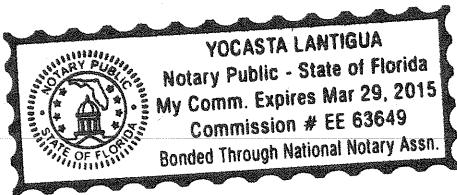
[Signature]
Print Name: Kevin Wellman

By: [Signature]
Name: Thomas P. Hunt
Title: Executive Vice President and General Counsel

[Signature]
Print Name: Ana Barboza

STATE OF FLORIDA }
COUNTY OF PALM BEACH }

The foregoing instrument was acknowledged before me on 22nd Oct 2014, by Thomas P. Hunt, Executive Vice President and General Counsel for SBA 2012 TC Assets, LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me.



[Signature]
Notary Public
Print Name: Yocasta Lantigua
My Commission Expires: Mar 29, 2015

EXHIBIT A

Situated in the City of St. Paul, County of Ramsey and State of Minnesota. Known as being part of the East Half of the Southeast quarter of Section 25, Township 29, Range 23 West, being a 1270 square foot Lease Area over and upon a parcel of land now or formerly conveyed to M S & S Enterprises, LLC as recorded in Document No. 3356231 of Ramsey County records and being more particularly described as follows:

Commence at the Intersection of the Southernmost property line of Lot 13 of Neurer's Addition and the Easternmost Right-Of-Way line of Arundel Street, thence N 00°12'27" W a distance of 10.00 feet to the Point of Beginning, thence turning and proceeding N 89°47'33" E a distance of 59.00 feet; thence S 00°12'27" E a distance of 21.53 feet; thence S 89°47'33" W a distance of 59.00 feet; thence N 00°12'27" W a distance of 21.53 feet to the Point of Beginning and containing 0.029 acres (1270 square feet) of land, more or less.

EXHIBIT B

Lot Thirteen (13), less the South 10 feet thereof, Block Three (3), Neurer's Addition to St. Paul, which addition is also described as Neurers Add., according to the plat thereof on file and of record in the office of the Register of Deeds in and for the County of Ramsey and State of Minnesota.