

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20041203

1. REQUESTED MOTION:

ACTION REQUESTED: Approve Tower Lease Agreement between Lee County and Sprint Spectrum L.P., a Delaware Limited Partnership, d/b/a Sprint, allowing use of the Menocal Avenue Water Tower by Sprint.

WHY ACTION IS NECESSARY: The Board of County Commissioners must approve Lease Agreements.

WHAT ACTION ACCOMPLISHES: Allows Sprint to lease space on the Menocal Avenue Fort Myers Water Tower.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

C12D

3. MEETING DATE:

09-28-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: Andrea R. Fraser
Assistant County Attorney

7. BACKGROUND:

Sprint Spectrum L.P., a Delaware Limited Partnership, d/b/a Sprint, contacted Lee County regarding using the Menocal Avenue Fort Myers Water Tower for placing antennas and equipment related to the transmission and reception of radio communication signals. After negotiation between the Parties, an Agreement has been drafted.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>Andrea Fraser</i>	OA	QM	RISK	GC	<i>see for with 9-16-04</i>
					<i>AK 9/14</i>	<i>9/16</i>	<i>9/16/04</i>	<i>9/16/04</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY
COUNTY ADMIN: *AK*
9/14/04
10:50am SLT
COUNTY ADMIN
FORWARDED TO:
9/16/04
430 *AW*

CO. ATT. 9/16/04
FORWARDED
TO CO. ADMIN.
5:30 AM

CDS, Inc.
3939 Arlington Street
Fort Myers, FL 33901
239-633-7030

July 26, 2004

Lee County
Board of County Commissioners
Attention: Andrea Fraser
P.O. Box 398
Fort Myers, FL 33902-0398

2004 JUL 27 PM 12: 21
RECEIVED BY
LEE CO. ATTORNEY

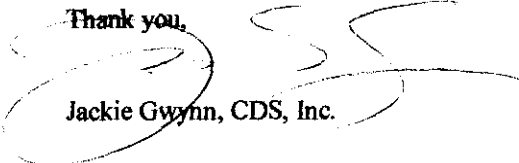
RE: TOWER LEASE AGREEMENT FOR MENOCAL WATER TOWER

Dear Ms. Fraser,

Attached please find four (4) original Lease Agreements executed by Sprint. Please schedule for consideration by the Board of County Commissioners. Once approved and executed please return two (2) fully executed originals to my attention.

Should you have any questions please contact me.

Thank you,


Jackie Gwynn, CDS, Inc.

TOWER LEASE WITH OPTION

THIS TOWER LEASE WITH OPTION (this "Lease") is by and between **LEE COUNTY, FLORIDA**, a political subdivision and charter county of the State of Florida ("Landlord"), and **SPRINT SPECTRUM L.P., A DELAWARE LIMITED PARTNERSHIP**, d/b/a ~~SPRING PCS~~ ("Tenant").

~~SPRINT~~ *SPRINT*

1. Option to Lease

a) In consideration of the payment of Five Hundred and No/100 (\$500.00) (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease the use of a portion of the real property described in the attached Exhibit A (the "Property"), together with the right to use the tower located thereon ("Tower") on the terms and conditions set forth herein (the "Option"). The Option shall be for an initial term of three (3) months, commencing on the Effective Date (as defined below) (the "Option Period"). The Option Period may be extended by Tenant for an additional three (3) months upon written notice to Landlord and payment of the sum of Five Hundred and No/100 (\$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 term 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 Communication Commission ("FCC") ("Governmental Approvals"), including appointing Tenant as agent for 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, and Landlord expressly grants to Tenant a right of access to the Property to perform surveys, soils tests, and other engineering procedures or environmental investigations on the Property necessary to determine that Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system design, operations and Governmental Approvals. Notwithstanding the foregoing, Tenant may not change the zoning classification of the Property without first obtaining Landlord's written consent. During the Option Period and any extension thereof, 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, subject to the following terms and conditions, Landlord hereby leases to Tenant the use of that portion of the Tower and Property, together with easements for access and utilities, generally described and depicted in the attached Exhibit B (collectively referred to hereinafter as the "Premises"). The Premises, located at

375 JJ

Menecal Avenue, Tice, Lee County, Florida, comprises approximately ~~200~~ square feet. Tenant's location on the Tower shall be at 126 feet above ground level.

2. Term

The initial term of the 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. 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, tower and base, antennas, microwave dishes, equipment shelters and/or cabinets and related activities.

4. Rent

Tenant shall pay Landlord, as rent, Two Thousand and 00/100 Dollars (\$2,000.00) per month ("Rent"). Rent shall be payable within twenty (20) days following the Commencement Date prorated for the remainder of the month in which the Commencement Date falls and thereafter Rent will be payable monthly in advance by the fifth day of each month to Lee County at Landlord's address specified in Section 12 below. If this Lease is terminated at a time other than on the last day of a month, Rent shall be prorated as of the date of termination for any reason (other than a default by Tenant) and all prepaid Rent shall be immediately refunded to Tenant. During the Initial Term and all Renewal Terms (as defined below), Rent shall increase annually by three percent (3%), and such increases shall be effective on each anniversary of the Commencement Date.

5. Renewal

Tenant shall have the right to extend this Lease for successive and additional renewal terms of one (1) year each (each a "Renewal Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein, except that Rent shall be increased as described above. This Lease shall automatically renew for each successive Renewal Term unless either party notifies the other party in writing of such party's intention not to renew this Lease, at least Two Hundred Seventy (270) days prior to the expiration of the five (5) year 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.

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, licenses, 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, equipment shelters and/or cabinets and related cables and utility lines and a location based system, including, without limitation, antenna(s), coaxial cable, base units and other associated equipment (collectively, the "Antenna Facilities"), as such location based system may be required by any county, state or federal agency/department. 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 not interfere with any aspects of construction, including, without limitation, attempting to direct construction personnel as to the location of, or method of installation of the Antenna Facilities and the Easements (as defined below) ("Construction Interference"). Landlord further acknowledges that it will be responsible for any costs and damages (including fines and penalties) that are directly attributable to Landlord's Construction Interference. The Antenna Facilities shall remain the exclusive property of Tenant. 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.

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 battery back-up). Landlord agrees to use reasonable efforts in assisting Tenant to acquire necessary utility service. Tenant shall install separate meters for utilities used on the Property by Tenant. Tenant shall pay the periodic charges for all utilities attributable to Tenant's use. 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 an Easement in, 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, which include, but are 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 ("Access") at all times during the Initial Term of this Lease and any Renewal Term. In the event Landlord, its employees or agents impede or deny Access to Tenant, its employees or agents, Tenant shall, without waiving any other rights that it may have at law or in equity, deduct from Rent amounts due under this Lease an amount equal to Five Hundred and No/100 Dollars (\$500.00) per day for each day that Access is impeded or denied.

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 that thirty (30) day period;

b) immediately if Tenant notifies Landlord of unacceptable results of any title report, environmental or soil tests prior to Tenant's installation of the Antenna Facilities on the Premises, or if Tenant is unable to 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 ninety (90) days' written notice by Tenant if the Property or the Antenna Facilities are, or become unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong;

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; 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 fact 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 (i) fails to perform any covenant for a period of thirty (30) days after receipt of written notice thereof to cure or (ii) commits a material breach of this Lease and fails to diligently pursue such cure to its completion after sixty (60) days' written notice to the defaulting party.

10. Taxes

Landlord shall pay when due all real property taxes for the Property, including the Premises. In the event the 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 are directly attributable to the presence or installation of Tenant's Antenna Facilities, only for so long as this Lease has not expired of its own terms or is not terminated by either party. Landlord hereby grants to Tenant the right to challenge, whether in a Court, Administrative Proceeding, or other venue, on behalf of Landlord and/or Tenant, any personal property or real property tax assessments that may affect Tenant. If Landlord receives notice of any personal property or real property tax assessments against the 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. 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 provide the following:

Commercial General Liability Insurance shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of One Million and No/100 Dollars (\$1,000,000.00) per Bodily Injury per person (BI); One Million and No/100 Dollars (\$1,000,000.00) Property Damage (PD); an aggregate amount of One Million and No/100 Dollars (1,000,000.00); or Two Million and No/100 Dollars (\$2,000,000.00) Combined Single Limit (CSL) of BI and PD.

Workers' Compensation - Statutory benefits as defined by Chapter 440, Florida Statutes, encompassing all operations contemplated by this Lease to apply to all owners, officers and employees, regardless of the number of employees. Employers' liability will have minimum limits of: One Million and No/100 Dollars (\$1,000,000.00) per accident; One Million and No/100 Dollars (\$1,000,000.00) disease limits; One Million and No/100 Dollars (\$1,000,000.00) disease limit per employee.

Tenant may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Tenant may maintain. However, the insurance or reinsurance carriers must be approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial rating of no less than A:VII with A.M. Best & Company.

Ten (10) days prior to the commencement of any work under this Lease, a Certificate of Insurance will be provided to the Risk Manager for review and approval. The Certificate shall provide the following: "Lee County, a political subdivision and charter county of the State of Florida, its agents, employees, and public officials" and will be named as an "Additional Insured" on the General Liability policy.

b) Tenant agrees to indemnify and hold harmless the Landlord from and against any and all claims, damages, cost and expenses, including reasonable attorney fees, to the extent caused by or arising out of (i) 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 (ii) a breach of any litigation of the indemnifying party under this Lease.

c) Notwithstanding anything to the contrary in this Lease, the Parties hereby confirm that the provisions of this section shall survive the expiration or termination of this Lease. Tenant shall 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:

Sprint National Lease Management
6391 Sprint Parkway
Mail Stop KSOPHT 0101-22650
Overland Park, Kansas 66251-2650

With a copy to:

Sprint Law Department
6391 Sprint Parkway
Mail Stop KSOPHT 01012-2020
Overland Park, Kansas 66251-2020
Attn: Sprint PCS Real Estate Attorney

If to Landlord, to:

Lee County Board of Commissioners
2115 Second Street
Fort Myers, FL 33902

With a copy to:

Mr. Tom Hill
Olga Water Plant
1450 Werner Drive
Alva, Florida 33920

13. Quiet Enjoyment, Title and Authority

Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute this Lease; (ii) it has good and unencumbered title to the Property and the Tower free and clear of any liens or mortgages, except those disclosed to Tenant and which will not interfere with Tenant's rights to or use of the Premises; and (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. Landlord covenants that at all times during the term of this Lease, 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. Environment 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 solely 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 or discovery 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 Landlord or Tenant prior to and during the Initial Term and any Renewal Term of this Lease. 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 serve the termination or expiration of this Lease.

Landlord, to the extent permitted by Section 768.28, Florida Statutes, agrees to indemnify, defend, save and hold harmless Tenant, its officers, agents and employees, from all suits, claims, demands and liabilities of any nature whatsoever arising out of, because of, or due to breach of this Lease by Landlord, or due to any act or occurrence of omission or commission of the Landlord, its agents or employees. Landlord and Tenant agree that this paragraph shall not waive sovereign immunity of the Landlord nor waive the benefits of Sections 768.28 and 335.055 or any similar provision.

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 is authorized pursuant to, and FCC licensed to operate a wireless communications business, is a parent, subsidiary or affiliate of Tenant, is merged or consolidated with Tenant or purchases 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. 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.

Additionally, Tenant may, upon notice to Landlord, mortgage or grant a security interest in this Lease and the Antenna Facilities, and may assign this Lease and the Antenna Facilities to any mortgagees or holders of security interests, including their successors or assigns (collectively "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant and Tenant's

Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagees located on the Premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after receipt of the default notice, as provided in Section 9 of this Lease. All such notices to Mortgagees shall be sent to Mortgagees at the address specified by Tenant. Failure by Landlord to give Mortgagees such notice shall not diminish Landlord's rights against Tenant, but shall preserve all rights of Mortgagees to cure any default and to remove any property of Tenant or Mortgagees located on the Premises as provided in Section 17 of this Lease.

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 Mortgagees 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 Mortgagee's sole discretion and without Landlord's consent.

18. Miscellaneous

- a) The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.
- b) Each party agrees to furnish to the other, within twenty (20) days after request, such truthful estoppel information as the other may reasonably request.
- c) This Lease constitutes the entire agreement and understanding of the parties, and supercedes all offers, negotiations and other agreements, with respect to the subject matter and property covered by this Lease.
- d) Each party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease in substantially the form attached hereto as Exhibit C necessary to protect its rights or use of the Premises. The Memorandum of Lease may be recorded in place of this Lease, by either party. 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. 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.

e) This Lease shall be construed in accordance with the laws of the state in which the Property is located.

f) If any term of this Lease is found to be void or invalid, such finding shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable. Any questions of particular interpretation shall not be interpreted against the draftsman, 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 signed 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.

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

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

i) All Exhibits referred to herein and any Addenda are incorporated herein for all purposes. The parties understand and acknowledge that Exhibit A (the legal description of the Property) and Exhibit B (the Premises location within the Property), 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, which may have been attached hereto in preliminary form, may be replaced by Tenant with such final, more complete exhibit(s). The terms of all Exhibits are incorporated herein for all purposes.

j) If Landlord is represented by any broker or any other leasing agent, Landlord is responsible for all commission fee or other payment to such agent, and agrees to indemnify and hold Tenant harmless from all claims by such broker or anyone claiming through such broker. If Tenant is represented by any broker or any other leasing agent, Tenant is responsible for all commission fee or other payment to such agent, and agrees to indemnify and hold Landlord harmless from all claims by such broker or anyone claiming through such broker.

k) Tenant must comply with all of Landlord's land development regulations except as such regulations are specifically modified or more explicitly provided in this Agreement.

l) Tenant shall retain a consultant, chosen by the Landlord, for the purpose of recommending placement of the Tenant's Antenna Facilities. Upon completion of the

installation of Tenant's Antenna Facilities and prior to Landlord issuing Tenant a final Certificate of Occupancy, at Tenant's expense, the consultant must inspect the installation.

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

ATTEST: CHARLIE GREEN
CLERK OF COURTS

LANDLORD: Lee County Board of
Commissioners

By: _____
Deputy Clerk

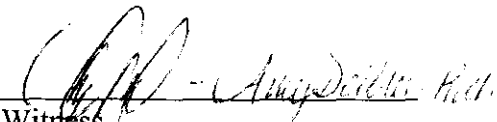
By: _____
Ray Judah, Chairman

Date: _____

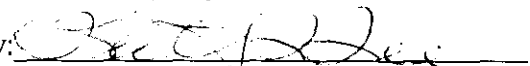
APPROVED AS TO FORM:

By: _____
Office of the County Attorney

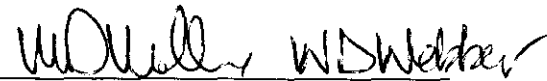
TENANT: Sprint Spectrum L.P., a
Delaware Limited Partnership, d/b/a
~~Sprint PCS~~ **SPRINT**



Witness

By: 

Printed Name: KEITH LEE




Witness

Title: SITE DEVELOPMENT MANAGER

Date: 7/20/04

APPROVED AS TO FORM:

By: 

Counsel to Sprint
M. Chris. Rosen

EXHIBIT A

Legal Description

The Property is legally described as follows:

PROPERTY DESCRIPTIONS

PARENT PARCEL
(OFFICIAL RECORDS BOOK 390, PAGE 290)

LOTS 6, 7 AND THE SOUTHEASTERLY 10 FEET OF LOT 5 (AS MEASURED ON A PERPENDICULAR TO THE SOUTHEASTERLY LINE OF SAID LOT 5) BLOCK 7, PARQUE DE LEON SUBDIVISION (ACCORDING TO A PLAT OR MAP THEREOF RECORDED IN PLAT BOOK 6 AT PAGE 72 OF THE PUBLIC RECORDS OF LEE COUNTY.)

SPRINT LEASE PARCEL
(PREPARED BY THIS OFFICE)

THAT PART OF LOT 6, BLOCK 7 OF PARQUE DE LEON SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 6, PAGE 72 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LYING IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCE AT THE SOUTH CORNER OF LOT 7, BLOCK 7 OF PARQUE DE LEON SUBDIVISION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 6, PAGE 72, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE N 32°37'43" W ALONG THE WESTERLY LINE OF SAID LOT 7 AND ALONG THE WESTERLY LINE OF LOT 6 OF SAID BLOCK 7 FOR 198.71 FEET; THENCE N 57°22'17" E FOR 17.98 FEET TO THE POINT OF BEGINNING; THENCE N 03°55'31" E FOR 15.00 FEET; THENCE S 86°04'29" E FOR 25.00 FEET; THENCE S 03°55'31" W FOR 15.00 FEET; THENCE N 86°04'29" W FOR 25.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 375 SQUARE FEET, MORE OR LESS.

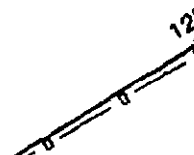
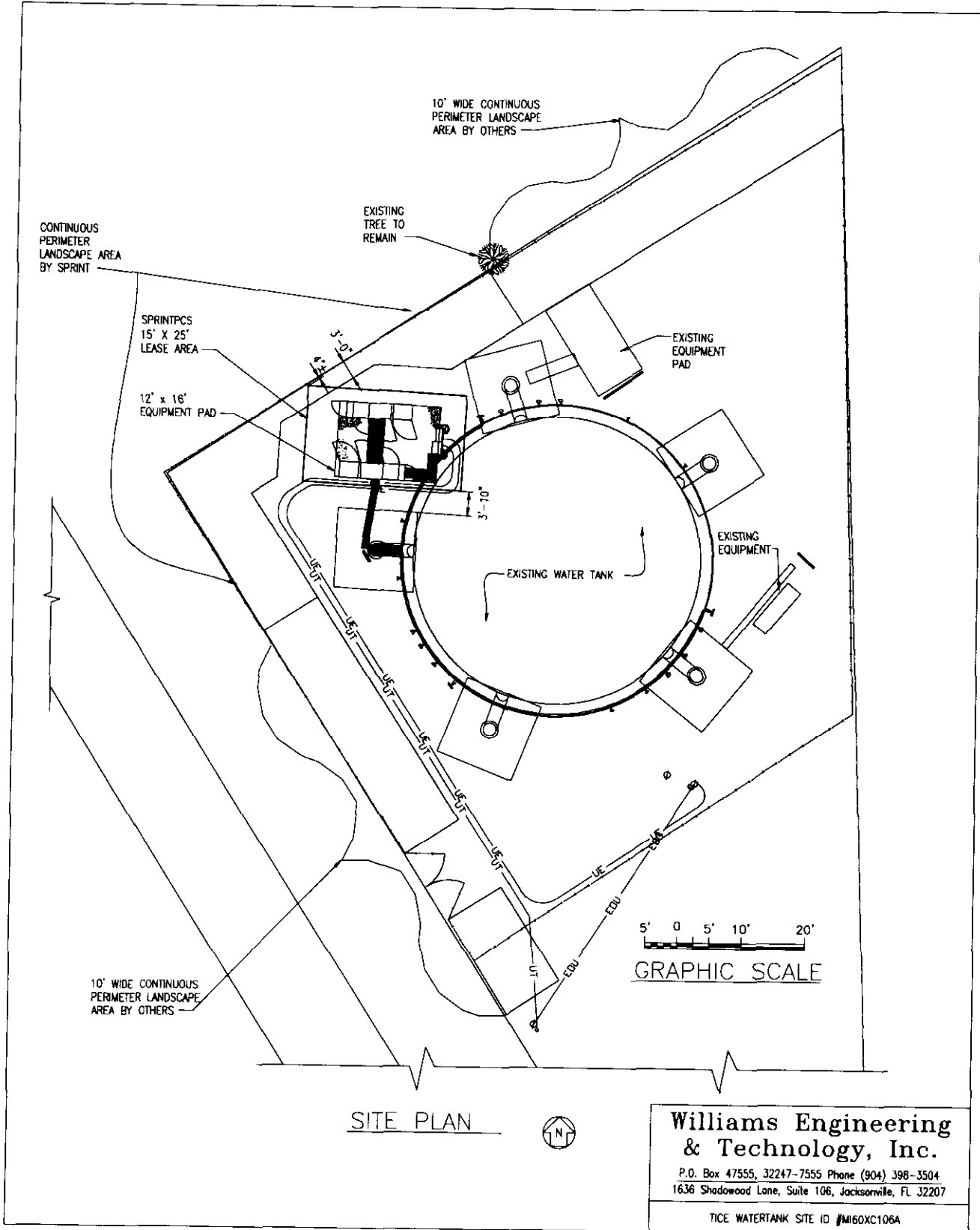


EXHIBIT B

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



SITE PLAN



Williams Engineering & Technology, Inc.

P.O. Box 47555, 32247-7555 Phone (904) 398-3504
1636 Shadowood Lane, Suite 106, Jacksonville, FL 32207

TICE WATERTANK SITE ID #M160XC106A

This instrument prepared by:
Michael Christiansen
Mastriana & Christiansen
1500 North Federal Highway, Suite 200
Fort Lauderdale, Florida 33304

EXHIBIT C

Return this instrument to:
Michael Christiansen
Mastriana & Christiansen
1500 North Federal Highway, Suite 200
Fort Lauderdale, Florida 33304

Do not write above this line - this space reserved for recording purposes

Memorandum of Agreement

This Memorandum of Agreement ("Memorandum") dated _____, 20__, evidences that a Tower Lease with Option was made and entered into dated _____, 20__, between Lee County, Florida, a political subdivision and charter county of the State of Florida ("Landlord") and Sprint Spectrum L.P., a Delaware limited partnership ("Tenant").

The Agreement provides in part that Landlord leases to Tenant certain real property owned by Landlord and located at _____, City of _____, County of Lee, State of Florida, together with non-exclusive easements for reasonable access thereto, for placement of an underground grounding system, and for access to the appropriate source of electric and telephone facilities (the "Site"). The Site is further described in Exhibit A attached hereto. The term of the Agreement is 5 years commencing on _____, 20__, which term is subject to additional 1-year extensions that may be exercised.

The parties have executed this Memorandum as of the day and year first above written.

LANDLORD: Lee County Board of County limited Commissioners

TENANT: Sprint Spectrum L.P., a Delaware partnership

By: _____
Name: _____
Title: _____
Address: _____

By: _____
Name: _____
Title: _____
Address: _____

Witness for Landlord

Witness for Tenant

Print Name: _____

Print Name: _____

Print Name: _____

Print Name: _____

Attach Exhibit A - Site Description

LANDLORD NOTARY BLOCK:

STATE OF

COUNTY OF

The foregoing instrument was (choose one) attested or acknowledged before me this _____ day of _____, 20____, by _____, as _____ of Lee County Board of County Commissioners.

(AFFIX NOTARIAL SEAL)

(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:

TENANT NOTARY BLOCK:

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of Sprint Spectrum L.P., a Delaware limited partnership, who executed the foregoing instrument on behalf of the partnership.

(AFFIX NOTARIAL SEAL)

(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

(PRINTED, TYPED OR STAMPED NAME OF NOTARY)