

## GROUND AND TOWER LEASE AGREEMENT

#870  
Munic  
Complex  
Tower

THIS LEASE AGREEMENT ('Lease'), is entered into as of this 1st day of July, 2010, by and between the **TOWN OF NAGS HEAD, NORTH CAROLINA**, a North Carolina municipal corporation ('Owner') and **RICHMOND 20MHz, LLC**, a Delaware limited liability company, d/b/a NTELOS, ('NTELOS').

In consideration of the premises and of the mutual obligations and agreements in this Lease, the parties agree as follows:

### 1. THE PROPERTY

A. Owner is the title holder of that certain real property commonly known as the Municipal Complex, located at 5401 South Croatan Highway, Town of Nags Head, State of North Carolina ('Owner's Property'), which is described on the attached Exhibit A. The parties agree that the legal description of Owner's Property may be attached as Exhibit A after execution of this Lease.

B. NTELOS hereby leases a portion of Owner's Property, and a certain portion of Owner's one hundred seventy-five (175) foot monopole communications tower located on Owner's Property ('Tower'), together with obtaining a right of access and a right to install utilities (the 'Property'). The Property which is the subject of this Lease is contained within Owner's Property, is i) ground space containing approximately two hundred forty (240) square feet, more specifically described as a twelve (12) foot by twenty (20) foot parcel of land (the 'Ground Space') situated substantially as shown on the attached Exhibit 'A2', and ii) space on the Tower for the installation of communications antennas (the 'Tower Space') situated substantially as shown on the attached Exhibit 'A3'. In addition, NTELOS shall have the right to run cables and wires under, over and across Owner's Property to connect NTELOS' equipment in the Tower Space to its equipment located in the Ground Space. NTELOS may park its vehicles on Owner's Property when NTELOS is constructing, removing, replacing, and/or servicing its communications facility.

C. Owner and NTELOS hereby agree that the Property (including an access right-of-way thereto but excluding the space on the Tower) may be surveyed by a licensed surveyor at the sole cost of NTELOS, and such survey shall then replace Exhibit 'A2' and become a part hereof and shall control to describe the Property in the event of any discrepancy between such survey and the description contained in Paragraph 1.A. or 1.B above.

### 2. LEASE AND EASEMENT

Owner leases the Property to NTELOS and grants to NTELOS a non-exclusive easement to access the Property (seven [7] days a week, twenty-four [24] hours a day) and to install, remove, replace, and maintain utility cables, conduits and pipes from the Property to the appropriate, in the discretion of NTELOS, source of electric and telephone facilities.

### 3. TERM AND RENT

A. This Lease shall be for a term of one (1) year (the 'Initial Term') beginning July 1, 2010, (the 'Commencement Date') and terminating at Midnight on the last day of the month in which the first anniversary of the Commencement Date shall have occurred. Thereafter, one (1) year Lease periods shall continue automatically for four (4) more successive one (1) year periods (the 'Renewal Terms'); provided, however, that NTELOS may terminate this Lease at any time after the expiration of the Initial Term by providing Owner with written notice not less than thirty (30) days prior to the expiration of the then current term. All of the terms and conditions of this Lease shall apply to each of the Renewal Terms, except that the rent for each Renewal Term shall be adjusted as provided in 3.B.

B. NTELOS shall pay Owner the sum of Two Thousand Four Hundred and 00/100 Dollars (\$2,400.00) per month for the Initial Term, which rent shall be paid, in advance, beginning on the Commencement Date (partial years prorated) to Owner or as Owner may otherwise direct from time to time in writing at least thirty (30) days before any rent payment date. For each succeeding year of this agreement the rent shall be increased by three percent (3%) over the next preceding year. It is agreed and understood that said rental shall be prorated for any rental period of less than one (1) year.

C. Owner and NTELOS agree that no earlier than one (1) year nor later than six (6) months prior to the end of the fourth Renewal Term of this Lease, Owner and NTELOS shall, upon written request from NTELOS, begin negotiations to enter into an lease to allow NTELOS to continue operating its facilities at the Tower and Property.

### 4. USE OF THE PROPERTY

A. Owner does hereby grant NTELOS the right, during the Initial Term and any Renewal Terms, to: (i) to install, maintain, operate, repair, replace and remove communications equipment, cabinets and shelters in the Ground Space, ii) install, maintain, operate, repair, replace and remove up to six (6) antennas in the Tower Space; and, iii) to install transmission lines, cables, brackets and mounting hardware between the Tower Space and Ground Space, all as shown on Exhibits A2 and A3, attached hereto and made a part hereof, including, without limitation, installation of grounding, electric power and telephone lines on Owner's Property, provided further, NTELOS shall not be allowed to place any of the aforementioned equipment in a manner that obstructs or impedes Owner's access to any other portions of Owner's Property.

B. NTELOS may use the Property to construct, remove, replace, maintain, secure and operate a communications facility, including, without limitation, required NTELOS antenna array (as such antenna array may be modified, added to, or substituted from time to time) and antenna support structures, and for any other uses incidental thereto. Each such antenna or antenna support structure may be configured as requested by NTELOS from time to time, provided NTELOS obtains, pursuant to paragraph 4.C., all permits and approvals required by applicable jurisdictions for such requested configuration. Owner shall have the right to approve plans for any improvements installed by NTELOS on the Property, which approval shall not be unreasonably withheld or delayed. Improvement of the Property to meet NTELOS' needs shall be at NTELOS' sole expense, and NTELOS shall maintain such improvements to the Property in a reasonable condition throughout the term.

C. Owner acknowledges that NTELOS' ability to use the Property for its intended purposes is contingent upon NTELOS' obtaining and maintaining, both before and after the Commencement Date, all of the certificates, permits, licenses and other approvals (collectively, "Governmental Approvals") that may be required by any federal, state or local authority for the foregoing uses and improvements to the Property desired by NTELOS. Owner shall cooperate with NTELOS in NTELOS' efforts to obtain such Governmental Approvals and shall take no action that would adversely affect NTELOS' obtaining or maintaining such Governmental Approvals.

## 5. TERMINATION

If any of the following occurs, NTELOS shall have the right to immediately terminate this Lease by giving written notice to Owner of such termination:

A. NTELOS determines, in its sole discretion, that it will be unable to obtain all necessary Governmental Approvals for NTELOS' intended use of and improvements to the Property desired by NTELOS; or

B. NTELOS' application for any Governmental Approvals necessary for NTELOS' use of the Property and improvements desired by NTELOS is denied; or

C. any Governmental Approvals necessary for NTELOS' use of the Property and/or improvements to the Property, whether now or hereafter desired by NTELOS, are canceled, expired, lapsed or are otherwise withdrawn, terminated or denied so that NTELOS, in its reasonable judgment, determines that it will no longer be able to use the Property for NTELOS' intended use; or

D. the Federal Communications Commission allocates the frequencies at which NTELOS may operate its antennas and equipment and may from time to time change such frequencies. Any change of this nature that, in NTELOS reasonable judgment, renders its operation of a wireless communications facility at the Property obsolete.

E. In addition to the foregoing, during the Renewal Term of the Lease, NTELOS may, upon thirty (30) days written notice to Owner, terminate this Lease if NTELOS determines that the Property has become unsuitable for NTELOS' operations due to changes in system or network design or in the types of equipment used in such operations or NTELOS' operations become unprofitable.

Any termination notice rendered by NTELOS pursuant to this Paragraph shall cause this Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Lease and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Lease.

## 6. ASSIGNMENT

A. NTELOS shall not assign, convey, sublet or transfer its interest in the Lease without first obtaining Owner's written approval, which approval can be withheld in the sole discretion of the

owner. Notwithstanding the foregoing, NTELOS shall have the right to assign this Lease to an Affiliate or in connection with the sale of all or substantially all of the assets of NTELOS without Owner's prior approval, and shall notify Owner within ninety (90) days of any such Affiliate assignment. "Affiliate" means any entity who controls, is controlled by, or is under common control with, NTELOS

## 7. FIRE OR OTHER CASUALTY

A. If the Tower or access to it, is damaged or destroyed by a casualty, Owner shall deliver written notice to NTELOS, within twenty (20) days after the casualty, of Owner's election (a) not to repair, restore and/or reconstruct the Tower and to terminate the Lease, provided, however, that in the event that Owner elects not to repair, restore and/or reconstruct the Tower, Owner shall make a good faith attempt to designate a site on which NTELOS may relocate in accordance with Paragraph 7.C below, or (b) to repair, restore and/or reconstruct the Tower. If, as a result of any such casualty, the Property becomes totally or partially unusable by NTELOS, rent shall abate during the period of repair in the same proportion to the total rent as the portion of the Property rendered unusable bears to the entire.

B. If Owner (a) undertakes the repair, restoration and/or reconstruction of the Tower or of any access thereto but fails to complete such repair, restoration, and/or reconstruction within forty-five (45) days after the casualty, or (b) notifies NTELOS of owners' intention not to repair, restore and/or reconstruct the Tower, or (c) fails to deliver to NTELOS the written notice required under Paragraph 7.A. within twenty (20) days, then NTELOS may immediately cancel this Lease by giving written notice of its election to cancel to Owner.

C. Owner agrees that (if reasonably required) during any period of repair, restoration or reconstruction (or for the balance of the Lease term if Owner elects not to repair the Tower), NTELOS may use and/or construct upon an alternative portion of Owners' Property which is equally suitable for NTELOS purposes temporary facilities, provided such space is available. The exact site to which NTELOS may locate its facilities will be determined by Owner, and it may be upon any portion of Owner's Property (or other property owned or controlled by Owner), provided that NTELOS reasonably approves the site as equally suitable for NTELOS intended uses. Owner will designate a temporary site to which NTELOS may relocate within 24 hours of the casualty, and it will designate a permanent site to which NTELOS may relocate in any notice to NTELOS that it does not intend to repair, restore and/or reconstruct the Tower.

D. Owner may terminate this Lease, upon one (1) year's prior written notice, in the event that Owner determines it will discontinue use of and dismantle the Tower and remove same from the Property.

## 8. INDEMNIFICATION AND INSURANCE

A. Subject to Subparagraph 8.E, NTELOS hereby agrees to indemnify and hold Owner harmless from and against any and all claims of liability for personal injury or property damage to the extent that they result from or arise out of (I) the acts or omissions of NTELOS, its agents and employees in, on or about the Tower, including the Property, excepting however, such claims or damages as may be due to or caused solely by the acts or omissions of Owner,

its employees or agents, and/or (ii) NTELOS' breach of any term or condition of this lease on NTELOS' part to be observed or performed.

B. Intentionally deleted.

C. NTELOS shall provide Owner with a certificate of insurance, issued by an insurance company licensed to do business in the state in which the Tower is located indicating that NTELOS carries comprehensive general liability insurance with limits of liability thereunder of not less than \$1 million combined single limit for bodily injury and/or property damage together with an endorsement for contractual liability. Such insurance shall name Owner as an additional insured with respect to the Property. NTELOS will provide owner with a renewal certificate within ten (10) business days of owner's request for such certificate. Any insurance required to be provided by NTELOS under this Paragraph 8 may be provided by a blanket insurance policy covering the Property and other locations of NTELOS, provided such blanket insurance policy complies with all of the other requirements of this Lease with respect to the type and amount of insurance required. NTELOS may also fulfill its requirements under this Paragraph 8 through a program of self-insurance. If NTELOS elects to self insure, then NTELOS shall furnish Owner with a letter stating that there is a self-insurance program in effect that provides for the same, or greater, coverage than required of NTELOS herein. In addition, NTELOS shall comply with the North Carolina Worker's Compensation Act and shall provide for payment of worker's compensation to its employees in a manner and to the extent required by such Act. In the event the NTELOS is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, NTELOS shall carry or cause its employees to carry adequate medical/accident insurance to cover injuries sustained by its employees or agents during the performance of SERVICES.

D. Intentionally deleted.

E. Each hazard insurance policy carried by or on behalf of Owner insuring the Tower and each hazard insurance policy carried by or on behalf of NTELOS insuring NTELOS' antennas and equipment located on or about the Property shall provide standard extended coverage, including without limitation, coverage against losses caused by fire. Each such policy shall be written so as to provide that the insurance company waives all rights of recovery by way of subrogation it may have against owner or NTELOS in connection with any loss or damage covered by such policy. the parties further agree and hereby release each other with respect to any claim (including a claim for negligence) which the other party may have against such party for loss, damage or destruction of, or liability for damages to, the property of the other occurring during the term of this lease, as same may be extended, and normally covered under a fire insurance policy with extended coverage. Notwithstanding anything contained in this Lease to the contrary, the provisions of this Subparagraph 8.E. shall control.

## 9. UTILITIES

NTELOS shall be responsible directly to the serving entities for all utilities required by NTELOS' use of the Property, however, Owner agrees to cooperate with NTELOS in its efforts to obtain utilities from any location provided by the Owner or the servicing utility. Should electric power be provided by Owner, NTELOS will install an electric meter and NTELOS' usage shall be read by Owner or, at Owner's option, by NTELOS, on an annual basis and the cost of electricity used

by NTELOS shall be paid by NTELOS to Owner annually as a payment separate from rent and shall be computed at the then-current public utility rate.

#### 10. RIGHTS TO EQUIPMENT, CONDITION ON SURRENDER

A. NTELOS' antennas and equipment shall remain personal to and the property of NTELOS. At the termination or expiration of this Lease, NTELOS shall remove its antennas and/or equipment. NTELOS shall repair any damage caused by such removal, and shall otherwise surrender the Property at the expiration of the term, as same may have been extended, or earlier termination thereof, in good condition, ordinary wear and tear, damage by fire and other casualty excepted.

B. Any claims relating to the condition of the Property must be presented by Owner in writing to NTELOS ~~with thirty (30)~~ within ninety (90) days after the termination or expiration of this lease or Owner shall be deemed to have irrevocably waived any and all such claims.

#### 11. NTELOS DEFAULTS

A. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder by NTELOS:

(1) The failure by NTELOS to make any payment of rent or any other payment required to be made by NTELOS hereunder, as and when due, where such failure shall continue for a period of twenty (20) days after written notice thereof is received by NTELOS from Owner.

(2) The failure by NTELOS to observe or perform any of the covenants or provisions of this Lease to be observed or performed by NTELOS, other than as specified in Paragraph 11.A.(1), where such failure shall continue for a period of thirty (30) days after written notice thereof is received by NTELOS from Owner; provided, however, that it shall not be deemed an Event of Default by NTELOS if NTELOS shall commence to cure such failure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

B. If there occurs an Event of Default by NTELOS, in addition to any other remedies available to Owner at law or in equity, Owner shall have the option to terminate this Lease and all rights of NTELOS hereunder.

C. If there occurs an Event of Default by NTELOS, Owner shall not have the right, prior to the termination of this Lease by a court of competent jurisdiction, to re-enter the Property and/or remove persons or property from the Property.

D. If there occurs an Event of Default by NTELOS, Owner reserves the right to relet the property and NTELOS will be responsible for paying the shortfall, if any, in the new monthly rental, through the term of the Lease, and all other remedies available at law or in equity.

#### 12. NOTICES

All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given if sent by certified mail, return receipt requested, addressed as follows (or to any

other mailing address which the party to be notified may designate to the other party by such notice) or as otherwise provided under applicable state law. Should Owner or NTELOS have a change of address, the other party shall immediately be notified as provided in this Paragraph of such change. Unless Owner otherwise specifies in writing, rent checks from NTELOS shall be sent to the person listed below to whom notices are sent.

Licensors: NTELOS  
1150 Shenandoah Village Drive  
Waynesboro, VA 22980  
Attn.: Lease Administrator  
Telecopier: (540) 932-2210

With a copy to:  
NTELOS, Inc.  
401 Spring Lane  
Waynesboro, VA 22980  
Attn: Senior Vice President Regulatory and Legal Affairs

Owner: Town of Nags Head  
5401 S. Croatan Highway  
PO Box 99  
Nags Head, NC 27959  
Attention: Cliff Ogburn, Town Manager  
Telephone Number: (252) 441-5508

With a copy to:  
Hornthal, Riley, Ellis & Maland, LLP  
PO Box 220  
301 East Main Street  
Elizabeth City, North Carolina 27909-0220  
Attention: John Leidy, Town Attorney  
Telephone Number (252) 335-0871

### 13. SALE OR TRANSFER BY OWNER

Should Owner, at any time during the term of this lease, sell, Lease, transfer or otherwise convey all or any part of Owner's Property to any transferee other than NTELOS, then such transfer shall be under and subject to this Lease and all of NTELOS' rights hereunder.

### 14. HAZARDOUS SUBSTANCES

A. Owner warrants and agrees that neither Owner nor, to owner's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material (as defined in Paragraph 14.B.) on, under, about or within Owner's Property in violation of any law or regulation. Owner and NTELOS each agree that they will not use, generate, store or dispose of any Hazardous Material (as defined in Paragraph

14.B.) on, under, about or within Owner's property in violation of any applicable law or regulation.

B. Owner and NTELOS each agree to defend and indemnify the other and the other's parents, partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any warranty or agreement contained in Paragraph 14.A. As used in Paragraph 14.A., "Hazardous Material" shall mean any substance, chemical or waste identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (including petroleum and asbestos).

## 15. CONDEMNATION

A. In the event the whole of Owners' Property, including without limitation the Property and Tower, shall be taken or condemned, either temporarily or permanently, for public purposes, or sold to a condemning authority under threat of condemnation to prevent taking, then this lease shall forthwith automatically cease and terminate.

B. In the event any portion of the Property, including without limitation the Tower, shall be taken or condemned, either temporarily or permanently, for public purposes, or sold to a condemning authority under threat of condemnation to prevent taking, then Owner agrees that NTELOS may use and/or construct upon an alternative portion of Owner's Property which is equally suitable for NTELOS purposes, provided such space is available. The exact site to which NTELOS may relocate will be determined by Owner, and it may be upon any portion of Owner's Property (or other property owned or controlled by Owner), provided that NTELOS reasonably approves the site as equally suitable for NTELOS intended uses. Owner will designate a site to which NTELOS may relocate prior to the taking, condemnation or sale. In the event no alternative portion of the Owner's Property is equally suitable for the purposes of NTELOS, then this lease shall forthwith automatically cease and terminate.

C. Owner shall receive the entire condemnation award for land, Tower and such other improvements as are paid for by Owner, and NTELOS hereby expressly assigns to owner any and all right, title and interest of NTELOS now or hereafter arising in and to any such award. NTELOS shall have the right to recover from such authority, but not from owner, any compensation as may be awarded to NTELOS on account of the lease interest, moving and relocation expenses, and depreciation to and removal of the personal property and fixtures of NTELOS.

## 16. LIENS

NTELOS shall keep the Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for NTELOS. NTELOS shall, within twenty (20) days following the imposition of any such lien, cause the same to be released of record by payment or posting of a proper bond. No work which Owner permits NTELOS to perform on the Property shall be deemed to be for the use and benefit of Owner so that no mechanics or other lien shall be allowed against the estate of Owner by reason of its consent to such work. Owner shall have the right to post notices that it is not responsible for payment for any such work.

## 17. TAXES

NTELOS shall be liable for and shall pay to the applicable taxing authority if billed directly to NTELOS, or to owner if billed Owner, upon thirty (30) days prior, written notice from Owner, any and all taxes and assessments levied against any personal property or trade or other fixtures placed by NTELOS in or about the Property.

NTELOS shall pay as additional rent any increases in real property taxes levied against Owner's Property, including the Tower, as a result of the improvements constructed by NTELOS on the Property. NTELOS will not be responsible for any increases in real property taxes which are a result of reassessment of Owner's Property due to any sale or transfer of ownership thereof.

## 18. QUIET ENJOYMENT AND NON-INTERFERENCE

A. This Agreement is not exclusive. Owner either has or anticipates entering into similar agreements with others thus allowing said third parties to co-locate communications equipment upon the Property. Subject to this disclosure and Paragraph 18.B., Owner warrants and agrees that NTELOS, upon paying the rent and performing the covenants herein provided, shall peaceably and quietly have and enjoy the Property.

B. NTELOS covenants that its communications equipment upon the Property, and all installation, operation, modification, relocation and maintenance associated therewith, will not interfere with communications equipment of the Owner or of any existing lessees upon the Property prior to installation or modification of NTELOS' communication equipment upon the Property. "Interference" shall include physical interference (i.e. lack of reasonable accessibility to equipment for purposes of installation, modification, repair and maintenance) and radio, television, or electronic signal transmission or reception interference. In the event NTELOS' communications equipment upon the Property, or the operation thereof, causes interference with the communications equipment of the Owner or any existing lessee upon the Property, NTELOS, upon notification by Owner or any existing lessee of such interference, shall promptly eliminate, suppress or otherwise remedy such interference at NTELOS' cost. In the event NTELOS is unable to suppress, eliminate or otherwise remedy the interference and such interference does not cease within forty-five (45) days from the date of notice to NTELOS then NTELOS shall cease its operations and use of its equipment on the Property except to the limited extent necessary for tests designed to identify the cause of the interference or assist in remedying the interference. If NTELOS, or any third party employed by NTELOS and qualified to evaluate the source of radio, television or electronic signal transmission or reception interference, determines that the source and cause of the interference is the communications equipment of another lessee upon the Property then NTELOS shall notify Owner and such other lessee and provide such findings and all data in support thereof to said other lessee who shall promptly eliminate, suppress or otherwise remedy the interference at said other lessee's cost. In the event said other lessee is unable to eliminate, suppress or otherwise remedy the interference and such interference does not cease within forty-five (45) days from the date of notice to such other lessee then such other lessee shall cease its operations and use of its equipment on the Property except to the limited extent necessary for tests designed to identify the cause of the interference or assist in remedying the interference.

Owner covenants to include the provisions herein set forth in all agreements with others allowing co-location of communications equipment upon the Property and accordingly, lessees upon the Property, including NTELOS, are expressly granted the right to enforce the remedies herein provided to resolve interference problems with respect to each other. With the exception of physical interference problems, Owner shall have no obligation to so enforce same. Owner shall encourage NTELOS and any other lessees making similar use of the Property to cooperate in resolving any interference problems, but Owner shall have no duty to resolve such problems, except for physical interference problems, nor liability associated therewith. Owner's Property is made available for such use on a first come, first serve basis and to the extent that NTELOS' communication equipment causes interference which cannot be resolved NTELOS understands that, subject to the terms herein stated, it is required to cease its operations and use of equipment upon the Property with the sole and limited remedy of terminating this Agreement as herein provided. In that event, this Lease is terminated for the reasons described in this Paragraph 18.B, Owner shall refund to NTELOS any prepaid annual rent, and thereafter Owner and NTELOS shall have no obligations to each other, except for the obligations in Paragraph 10.

#### 19. COORDINATION OF OPERATION

A. As a consequence of the proposed twenty-four (24) hour daily basis of operation by NTELOS, Owner acknowledges that any action undertaken or permitted by Owner in making repairs, alterations, additions or improvements to the Tower that might interfere with, suspend, cut-off or terminate access to or use by NTELOS of the Property or NTELOS antennas or equipment could cause inconvenience, expense and economic loss to NTELOS. Therefore, Owner agrees (i) to use its best efforts to minimize such inconvenience, possible loss or expense to NTELOS by, among other things, not scheduling any of the foregoing actions, and using its best efforts not to cause or permit any interruption or interfere with the operations of NTELOS' antennas or equipment, during the hours of 4:00 p.m. to 7:00 p.m. on any weekday, and (ii) to give NTELOS notice of any repairs, alterations, additions or improvements to be made with respect to the maintenance and operation of the Tower and the Property or of any planned shut downs associated with the Tower for scheduled or routine maintenance that might adversely affect the operation of NTELOS' wireless communications facility, antennas or equipment.

B. Owner agrees to give to NTELOS reasonable advance written notice (except in the case of emergency where advance written notice cannot reasonably be given, in which event, Owner shall give NTELOS telephonic notice at (540) 941-4800 of repairs, alterations or improvements to be made with respect to the maintenance and operation of the Tower and the Property when such repairs, alterations or improvements may interfere with NTELOS' operations.

#### 20. BROKERS

Owner and NTELOS represent to each other that they have not negotiated with any real estate broker in connection with this Lease. Owner and NTELOS agree that should any claim be made against the other for a real estate broker's commission, finder's fee or the like by reason of the acts of such party, the party upon whose acts such claim is predicted shall indemnify and hold the other party free and harmless from all losses, costs, damages, claims, able and expenses in

connection therewith (including, but not limited to, reasonable legal fees) and shall defend such action by legal counsel reasonably acceptable to the indemnified other party.

## 21. ESTOPPEL CERTIFICATES

A. Owner, at the request of NTELOS, shall provide NTELOS with a certificate stating: (1) whether Owner has any claim against NTELOS and if so, stating the nature of such claim; (2) that Owner recognizes NTELOS' right to NTELOS' antennas, equipment and other property; (3) that NTELOS has the right to remove NTELOS' equipment and other property from the Property notwithstanding that same may be considered a fixture under local law; and (4) that Owner has no interest in and disclaims any interest to NTELOS' equipment and other property.

B. NTELOS, at the request of Owner, shall provide Owner with a certificate stating: (1) that this Lease is unmodified and in full force and effect (or, if there has been any modification, that the same is in full force and effect as modified and stating the modification); (2) whether or not, to NTELOS' knowledge, there are then existing any set-offs, or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof upon the part of NTELOS to be performed or complied with (and, if so specifying the same); and (3) the dates, if any, to which the rent has been paid in advance.

## 22. MISCELLANEOUS PROVISIONS

A. Owner warrants and agrees that Owner is seized of good and sufficient title to and interest in the Property and has full authority to enter into and execute this Lease and that there are no undisclosed liens, judgments or impediments of title on Owner's Property that would affect this Lease.

B. This Lease, including attached exhibits which are hereby incorporated by reference, incorporates all agreements and understandings between Owner and NTELOS and no verbal agreements or understandings shall be binding upon either Owner or NTELOS, and any addition, variation or modification to this Lease shall be ineffective unless made in writing and signed by the parties.

C. Owner agrees that Owner's Property (including, without limitation, the Tower), and all improvements comply and during the term of this Lease shall continue to comply with all building, life/safety, disability and other laws, codes and regulations of any applicable governmental or quasi-governmental authority. All such compliance shall be accomplished at Owner's sole cost and expense. Except for improvements made by NTELOS, owner at its sole cost shall maintain in good condition and repair, the Tower and other improvements upon which the property is located.

D. This Lease and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of North Carolina.

E. This Lease, and each and every covenant and condition herein, is intended to benefit the Property and shall extend to and bind the heirs, personal representatives, successors and assigns of the parties.

F. The parties agree that all of the provisions hereof shall be construed as both covenants and conditions, the same as if the words importing such covenants and conditions had been used in each separate paragraph.

G. The parties acknowledge that each has had an opportunity to review and negotiate this Lease and have executed this Lease only after such review and negotiation. The language of each part of this Lease shall be construed simply and according to its fair meaning, and this Lease shall not be construed more strictly in favor or against either party.

H. At Owner's option, this Lease shall be subordinate to any mortgage by Owner which from time to time may encumber all of any part of the Property, provided that every such mortgagee shall recognize (in writing and in a form acceptable to NTELOS' counsel) the validity of this Lease in the event of a foreclosure of Owner's interest and also NTELOS' right to remain in occupancy and have access to the Property as long as NTELOS is not in default of this lease. NTELOS shall execute whatever instruments may reasonably be required to evidence this subordination. If, as of the date of execution of this Lease, there is any deed of trust, ground lease or other similar encumbrance affecting Owner's Property, Owner agrees to use its best efforts in cooperating with NTELOS to obtain from the holder of such encumbrance an agreement that NTELOS shall not be disturbed in its possession, use and enjoyment of the Property.

I. If Owner breaches this Lease in any manner or substantially breaches any material term contained in any mortgage or deed of trust superior to NTELOS' estate under this Lease (other than any mortgage or deed of trust for which NTELOS has obtained a non-disturbance agreement in accordance with Paragraph 22.H.) or contained in any lease under which Owner holds title to any portion of Owner's Property and if Owner fails to commence to cure such breach within thirty (30) days after receiving a written notice from NTELOS exactly specifying the violation (or if Owner fails thereafter to diligently prosecute the cure to completion), then NTELOS may enforce each of its rights and remedies under this Lease or provided by law or it may (although it shall not be obligated to do so) cure Owner's breach or perform Owner's obligations (on Owner's behalf and at owner's expense) and require the owner to reimburse (or offset against rent) all reasonable expenses incurred in doing so plus interest (from the date such expenses are incurred until reimbursement) at ten percent (10%) per annum.

J. If any portion of this Lease is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion shall be deemed modified to the extent necessary in such court's opinion to render such portion enforceable and, as so modified, such portion and the balance of this Lease shall continue in full force and effect.

K. Intentionally deleted.

L. In addition to the other remedies provided for in this Lease Owner and NTELOS shall be entitled to immediate restraint by injunction of any violation of any of the covenants, conditions or provisions of this Lease.

M. The captions of the paragraphs of this Lease are for convenience of reference only and shall not affect the interpretation of this Lease.

N. Concurrently with the execution of this Lease, Owner shall execute before a notary and deliver to NTELOS for recording a 'Memorandum of Lease Agreement' in the form of the attached Attachment 'B'. Such Memorandum shall not disclose any financial terms, unless required to do so by the laws of such jurisdiction.

IN TESTIMONY WHEREOF, The Town of Nags Head has caused this instrument to be executed in its name and behalf by its Mayor, attested by the Town Clerk and its seal affixed hereto, all as of the act and deed of its Board of Commissioners, pursuant to a resolution adopted on the 6<sup>th</sup> day of October, 1999, and Richmond 20MHz, LLC, a Delaware limited liability company, d/b/a NTELOS has caused this instrument to be executed in its name and on behalf of the Partnership, all the day and year first above written.

[Signatures appear on the following page]

TOWN OF NAGS HEAD, NORTH CAROLINA

By: Robert O. Oakes Jr. (SEAL)

Name: Robert O. Oakes Jr.

Its: Mayor

Date: 5/12/10

Tax ID No.: 56-6034273



Attest:

Carolyn F. Morris  
Carolyn F. Morris, Town Clerk

RICHMOND 20MHz, LLC  
a Delaware limited liability company

By: R. L. McAvoy (SEAL)

Name: R. L. McAvoy

Title: Senior Vice-President

Date: 3/19/10

Tax ID No.: 54-1580339

STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, Michelle H Gray, a Notary Public of the County and State aforesaid, certify that Carolyn F. Morris personally came before me this day and acknowledged that she is the Town Clerk of the Town of Nags Head, a North Carolina municipal corporation, and that by authority duly given and as act of the Town, the forgoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Town Clerk. Witness my hand and official stamp or seal, this 12<sup>th</sup> day of May, 2010.



Michelle H Gray  
Notary Public

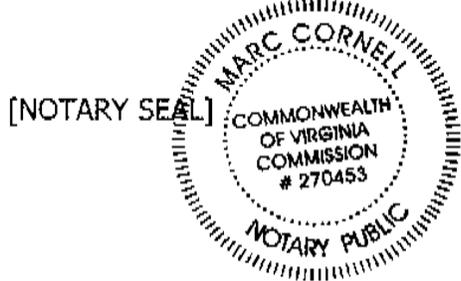
My Commission Expires: 9-27-10

COMMONWEALTH OF VIRGINIA  
COUNTY OF CHESTERFIELD

I, Marc Cornell, a Notary Public for said County and State, do hereby certify that R. L. McAvoy, Vice President for Richmond 20MHz, LLC, a Delaware limited liability company, d/b/a NTELOS, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this 12<sup>th</sup> day of May, 2010.

Marc Cornell  
Notary Public

My Commission Expires: 9/30/2012



**EXHIBIT A**

**OWNER'S PROPERTY**

Site ID: RMB-7204-01

Owner's Property is situated in the Town of Nags Head, County of Dare, State of North Carolina, commonly described as property owned by the Town of Nags Head, located at 5401 South Croatan Highway, and recorded in Deed Book 118, page 474 of the Dare County registry.

**SKETCH OF THE OWNER'S PROPERTY:**

SEE ATTACHED DRAWING

**EXHIBIT C**

FORM MEMORANDUM OF AGREEMENT

MEMORANDUM OF GROUND AND TOWER LEASE AGREEMENT

**MEMORANDUM OF GROUND AND TOWER LEASE AGREEMENT**

THIS INSTRUMENT PREPARED BY:

NAME Marc Cornell  
ADDRESS Richmond 20MHz, LLC  
9011 Arboretum Parkway, Suite 295  
Richmond, VA 23236

TAX MAP NO.: \_\_\_\_\_

**MEMORANDUM OF LEASE AGREEMENT**

THIS MEMORANDUM evidences that a lease was made and entered into by written Ground and Tower Lease Agreement dated July 1, 2010, between the **TOWN OF NAGS HEAD, NORTH CAROLINA**, a North Carolina municipal corporation ("Owner"/"Grantor") and **RICHMOND 20MHz, LLC**, a Delaware limited liability company, d.b.a. NTELOS ("Company"/"Grantee"), executed by Grantor and Grantee as of \_\_\_\_\_, 2010, (the "Execution Date"), the terms and conditions of which are incorporated herein by reference.

Such Ground and Tower Lease Agreement provides in part that Grantor leases to Grantee a certain site located at 5401 South Croatan Highway, Town of Nags Head, State of North Carolina, together with nonexclusive easements for rights of access thereto and electric and telephone utilities, which site is described in Attachment "A" attached hereto, within the property of Owner, which is described in Attachment "B" attached hereto. The lease provides for a term of one (1) year commencing on July 1, 2010 (the "Commencement Date"), which term is subject to four (4) additional, successive one (1) year extension periods by Grantee

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease on the day and year written below.

**LESSOR:  
TOWN OF NAGS HEAD, NORTH  
CAROLINA**

By: \_\_\_\_\_ (SEAL)  
Name: Robert O. Oakes Jr.  
Its: Mayor  
Tax ID No.: 56-6034273

**Attest:**

\_\_\_\_\_  
Carolyn F. Morris, Town Clerk

STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that Carolyn F. Morris personally came before me this day and acknowledged that she is the Town Clerk of the Town of Nags Head, a North Carolina municipal corporation, and that by authority duly given and as act of the Town, the forgoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Town Clerk. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

My Commissioner Expires: \_\_\_\_\_

[NOTARY SEAL]

**LESSEE:**  
**RICHMOND 20MHz, LLC**

By: \_\_\_\_\_ (SEAL)  
Name: R. L. McAvoy  
Title: Senior Vice President  
Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_

County of Chesterfield  
Commonwealth of Virginia

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that R. L. McAvoy, Senior Vice President for Richmond 20MHz, LLC, a Delaware limited liability company, d/b/a NTELOS, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

My Commissioner Expires: \_\_\_\_\_

[NOTARY SEAL]



Exhibit A2  
Ground Space

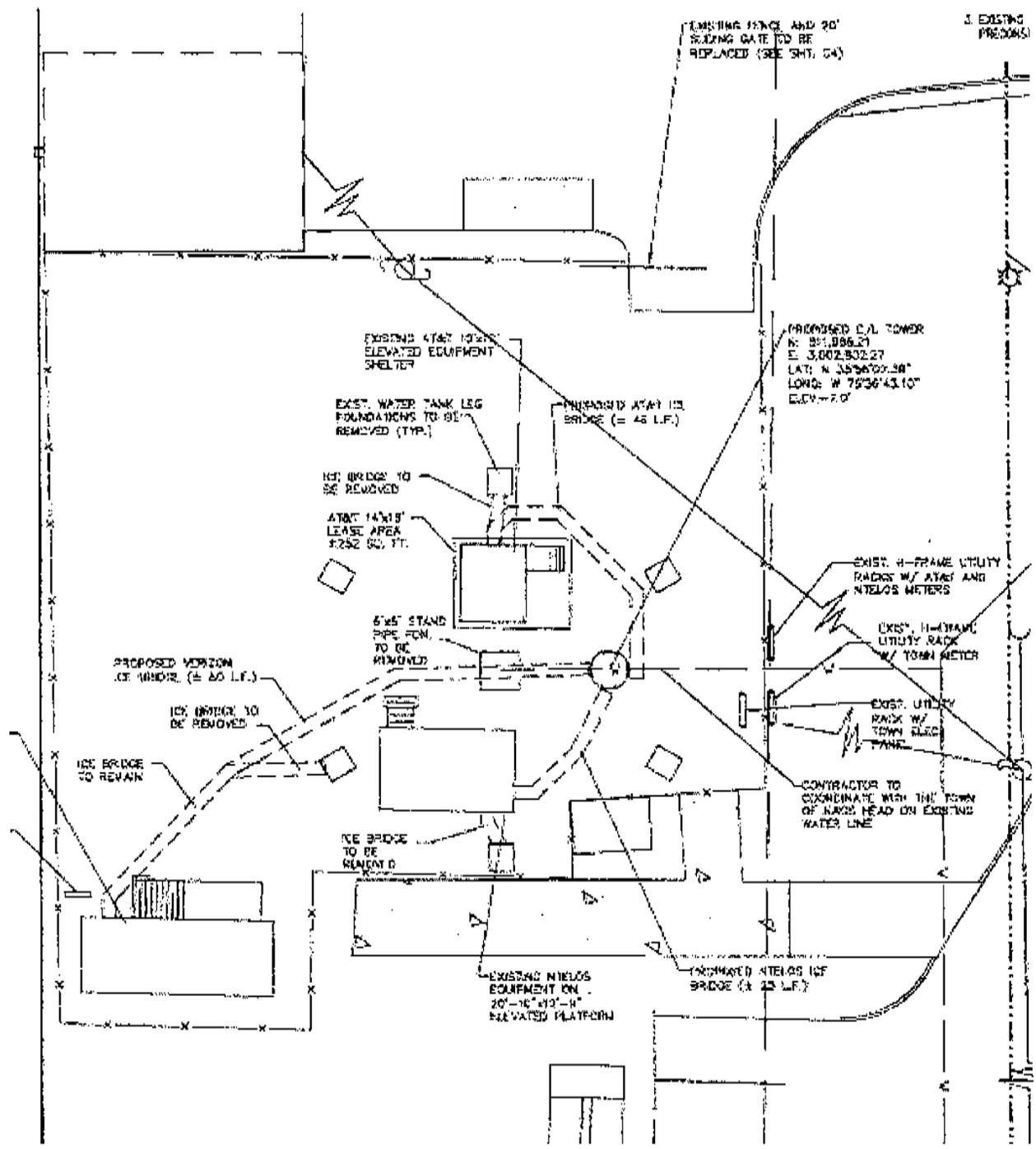
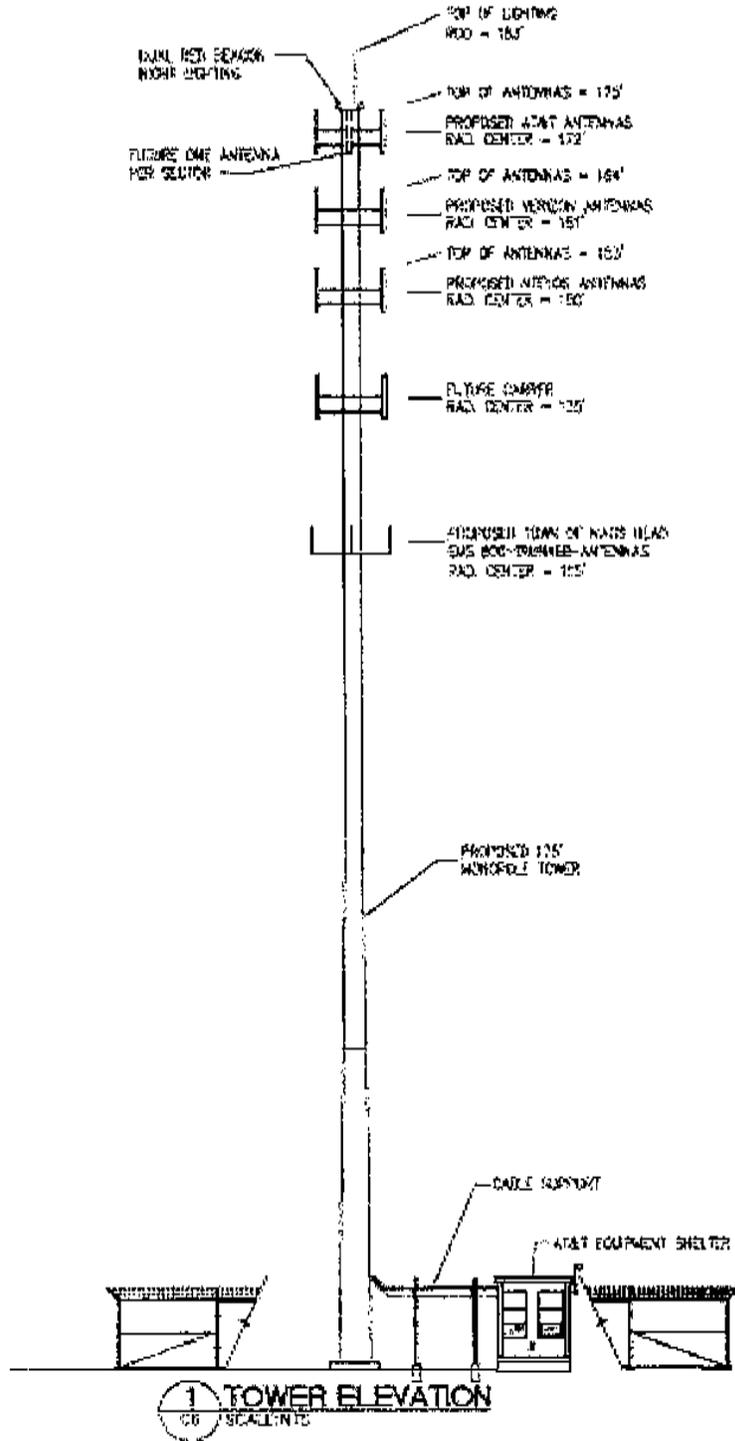


Exhibit A3

Tower Space



**MEMORANDUM OF GROUND AND TOWER LEASE AGREEMENT**

THIS INSTRUMENT PREPARED BY:

NAME Beverly Johnson  
ADDRESS Richmond 20MHz, LLC  
1150 Shenandoah Village Drive  
Waynesboro, VA 22980

TAX MAP NO.: \_\_\_\_\_

**MEMORANDUM OF LEASE AGREEMENT**

THIS MEMORANDUM evidences that a lease was made and entered into by written Ground and Tower Lease Agreement dated July 1, 2010, between the **TOWN OF NAGS HEAD, NORTH CAROLINA**, a North Carolina municipal corporation ("Owner"/"Grantor") and **RICHMOND 20MHZ, LLC**, a Delaware limited liability company, d.b.a. NTELOS ("Company"/"Grantee"), executed by Grantor and Grantee as of \_\_\_\_\_, 2010, (the "Execution Date"), the terms and conditions of which are incorporated herein by reference.

Such Ground and Tower Lease Agreement provides in part that Grantor leases to Grantee a certain site located at 5401 South Croatan Highway, Town of Nags Head, State of North Carolina, together with nonexclusive easements for rights of access thereto and electric and telephone utilities, which site is described in Attachment "A" attached hereto, within the property of Owner, which is described in Attachment "B" attached hereto. The lease provides for a term of one (1) year commencing on July 1, 2010 (the "Commencement Date"), which term is subject to four (4) additional, successive one (1) year extension periods by Grantee

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease on the day and year written below.



Attest:

*Carolyn F. Morris*  
Carolyn F. Morris, Town Clerk

LESSOR:  
TOWN OF NAGS HEAD, NORTH CAROLINA

By: *Robert O. Oakes Jr.* (SEAL)  
Name: Robert O. Oakes Jr.  
Its: Mayor  
Tax ID No.: 56-6034273

STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, Michelle H Gray, a Notary Public of the County and State aforesaid, certify that Carolyn F. Morris personally came before me this day and acknowledged that she is the Town Clerk of the Town of Nags Head, a North Carolina municipal corporation, and that by authority duly given and as act of the Town, the forgoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Town Clerk. Witness my hand and official stamp or seal, this 12th day of May, 2010.



Michelle H Gray  
Notary Public

9-27-10

LESSEE:  
RICHMOND 20MHz, LLC

By: R.L. McAvoy (SEAL)  
Name: R. L. McAvoy  
Title: Senior Vice President  
Date: 3/19/10

Attest:

County of Chesterfield  
Commonwealth of Virginia

I, Marc Cornell, a Notary Public for said County and State, do hereby certify that R. L. McAvoy, Senior Vice President for Richmond 20MHz, LLC, a Delaware limited liability company, d/b/a NTELOS, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this 19th day of March, 2010.

Marc Cornell  
Notary Public

My Commission Expires: 9/30/2012  
[NOTARY SEAL]

