



# RESOLUTION No. 20-040

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION APPROVING AMENDMENT NO. 1 TO THE SITE LEASE AGREEMENT BETWEEN THE COUNTY OF NEVADA AND T-MOBILE WEST, LLC, TO PROVIDE FOUR (4) FIVE (5) YEAR OPTIONS TO RENEW FOR TOWER RENTAL LOCATED AT 980 HELLING WAY IN NEVADA CITY AND AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO EXECUTE THE AMENDMENT

WHEREAS, the County of Nevada and T-Mobile West, LLC, entered into a License and Easement Agreement on April 20, 2010 for the rental of space on the County-owned Telecommunications Tower and Equipment Room located at 980 Helling Way, Nevada City, CA, 95959, APN 05-020-018 on a temporary basis that expired on May 18, 2010; and

WHEREAS, on March 22, 2011, through Resolution 11-119, a ten (10) year lease agreement was entered into; and

WHEREAS, both parties desire to amend their Agreement to provide four (4) additional five (5) year terms which will be brought back to the Board for approval prior to the beginning of each term; and

NOW THEREFORE, BE IT RESOLVED that the Nevada County Board of Supervisors hereby directs that:

1. That the Board Chair hereby approves and is authorized to execute on behalf of the County of Nevada Amendment No. 1 to provide four (4) five (5) year options to renew to the Lease Agreement "Site Lease with Options" with T-Mobile West, LLC, for the rental of tower and ground space located at 980 Helling Way, Nevada City, CA, 95959, APN 05-020-018 authorized through Resolution 11-119.
2. This Amendment shall be effective as of the date of execution by the last party to sign the Amendment.
3. That in all other respects the terms of the Lease Agreement shall remain the same except as amended herein.

Revenue Account: 0101-10702-415-1000/430200

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 11th day of February, 2020, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: . None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 

  
Heidi Hall, Chair

2/11/2020 cc: Facilities (1)  
AC\*  
TMW, LLC (1)

**AMENDMENT NO. 1 TO THE SITE LEASE WITH OPTION (RESO 11-119)**

This Amendment No. 1 to the Site Lease with Option (the "**Amendment**") is effective as of the date of execution by the last party to sign (the "**Effective Date**") by and between County of Nevada, a political subdivision of the State of California ("**Landlord**") and T-Mobile West LLC, a Delaware limited liability company ("**Tenant**") (each a "**Party**", or collectively, the "**Parties**"). Said Amendment will amend the prior agreement between the Parties entitled "Site Lease with Option" executed on March 22, 2011.

WHEREAS, Landlord and Tenant (or their predecessors-in-interest) entered into that certain Site Lease with Option dated March 22, 2011 (the "**Lease**") regarding Landlord's leased area ("**Premises**") located at 980 Helling Way, Nevada City, CA 95959 (the "**Property**"). The original term of the Lease is ten (10) years; and

WHEREAS, the Lease is in full force and effect and neither Landlord nor Tenant is in breach under the terms of the Lease; and

WHEREAS the Parties desire to amend their agreement to provide four (4) additional five (5) year terms as provided below.

NOW THEREFORE, the Parties hereto agree as follows:

1. That this Amendment shall be effective as of the Effective Date, as defined above.
2. Section 2 of the Lease entitled Term is amended by adding the following:

At the expiration of the original Lease, the Term of the Lease will automatically be extended for four (4) additional and successive five (5) year terms (each a "**Renewal Term**"), provided, that Tenant may elect not to renew by providing Landlord thirty (30) days' notice prior to the expiration of the then current Renewal Term.

3. Section 3 of the Lease entitled Rent is amended by adding the following:

At the commencement of the first Renewal Term, Tenant shall pay Landlord Two Thousand Two Hundred and No/100 Dollars (\$2,200.00) per month ("**Rent**") in advance, by the fifth (5<sup>th</sup>) day of each month. Any Rent previously paid from and after the commencement of the first Renewal Term provided for in this Amendment shall be offset against the new Rent. Rent shall be adjusted annually, effective on each anniversary of the Renewal Term, by an amount equal to three percent (3%) over the Rent for the immediately preceding year. This new Rent and Rent adjustment shall supersede and replace any prior Rent or Rent adjustments.

4. Any charges payable under the Lease other than Rent shall be billed by Landlord to Tenant within twelve (12) months from the date in which the charges were incurred or due; otherwise the same shall be deemed time-barred and be forever waived and released by Landlord.
5. Section 11 of the Lease entitled Notices is hereby deleted in its entirety and replaced with the following:

All notices, requests, demands and other communications shall be in writing and shall be effective three (3) business days after deposit in the U.S. mail, certified, return receipt requested or upon receipt if personally delivered or sent via a nationally recognized 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:

T-Mobile USA, Inc.  
12920 SE 38th Street  
Bellevue, WA 98006  
Attn: Lease Compliance/ SC56222A

If to Landlord:

County of Nevada  
950 Maidu Avenue  
Nevada City, CA 95959

6. Tenant and Landlord will reasonably cooperate with each other's requests to approve permit applications and other documents related to the Property.
7. Except as expressly set forth in this Amendment, the Lease otherwise is unmodified. To the extent any provision contained in this Amendment conflicts with the terms of the Lease, the terms and provisions of this Amendment shall control. Each reference in the Lease to itself shall be deemed also to refer to this Amendment.
8. This Amendment may be executed in duplicate counterparts, each of which will be deemed an original. Signed electronic copies of this Amendment will legally bind the Parties to the same extent as originals.
9. Each of the Parties represents and warrants that it has the right, power, legal capacity and authority to enter into and perform its respective obligations under this Amendment. Landlord represents and warrants to Tenant that the consent or approval of a third party has either been obtained or is not required with respect to the execution of this Amendment.

10. This Amendment will be binding on and inure to the benefit of the Parties herein, their heirs, executors, administrators, successors-in-interest and assigns.

IN WITNESS, the Parties execute this Amendment as of the Effective Date.

**Landlord:**

**County of Nevada, a political subdivision of the State of California**

By: Heidi Hall

Print Name: Heidi Hall

Title: Chair, BOS

Date: 2/11/2020

**Tenant:**

**T-Mobile West LLC, a Delaware limited liability company**

By: DocuSigned by: Mike Taylor

Print Name: Mike Taylor

Title: VP Technology Procurement

Date: 12/21/2019

Kelly Dunham 11/20/19  
T-Mobile Contract Attorney  
as to form

