



## **RESOLUTION**

**APPROVING A FIRST AMENDMENT AND MEMORANDUM OF FIRST  
AMENDMENT TO THE SITE LEASE AGREEMENT WITH STC FIVE LLC  
(SUCCESSOR-IN-INTEREST TO SPRINT SPECTRUM, L.P.) FOR THE FOUR HILLS  
LANDFILL CELL TOWER**

### ***CITY OF NASHUA***

*In the Year Two Thousand and Ten*

**RESOLVED** by the Board of Aldermen of the City of Nashua that the attached First Amendment to PCS Site Agreement and the Memorandum of First Amendment to PCS Site Agreement with STC FIVE LLC (successor-in-interest to Sprint Spectrum, L.P.), for real property leased at the Four Hills Landfill for a cell tower, are hereby approved.

**LEGISLATIVE YEAR 2010**

**RESOLUTION:** R-10-52

**PURPOSE:** Approving a first amendment and memorandum of first amendment to the site lease agreement with STC FIVE LLC, (successor-in-interest to Sprint Spectrum, L.P.) for the Four Hills Landfill cell tower

**SPONSOR(S):** Mayor Donnalee Lozeau

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:** Monthly revenue to the city with annual increases based on the Consumer Price Index.

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**ANALYSIS**

This resolution approves a first amendment and memorandum of first amendment to the PCS (personal communications service system facility) Site Agreement between STC FIVE LLC (successor-in-interest to Sprint Spectrum, L.P.), and the City of Nashua. The PCS Site Agreement is for real property leased at the Four Hills Landfill for a cell tower. Amendments to the existing agreement include extending the term of the agreement by twenty years and providing for annual independent inspections of the tower structure. This resolution should be referred to the Board of Public Works.

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**Approved as to form:**

**Office of Corporation Counsel**

**By:** Dowhy Clarke

**Date:** July 30, 2010

FIRST AMENDMENT TO PCS SITE AGREEMENT  
(BU878776)

THIS FIRST AMENDMENT TO PCS SITE AGREEMENT ("First Amendment") is made effective this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between CITY OF NASHUA, a New Hampshire municipality ("Owner"), with a mailing address of PO Box 785, 0 Panther Drive, Nashua, New Hampshire 03061, and STC FIVE LLC, a Delaware limited liability company ("STC Five LLC"), successor-in-interest to Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), by and through its attorney-in-fact, Global Signal Acquisitions II LLC, a Delaware limited liability company, with a mailing address of c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, Pennsylvania 15317.

WHEREAS, Owner and SSLP entered into a PCS Site Agreement dated January 29, 1997 (as assigned, the "Agreement") whereby Owner leased to SSLP a portion of land being originally described as an approximate 2,500 square feet portion of that property (said leased portion being the "Site") located at 840 West Hollis Street (Tax Identification # Map C-Lot 67), Nashua, in Hillsborough County, New Hampshire, and being further described in Book 2048 Page 397 in the Hillsborough County Registry of Deeds Office ("Registry"), together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Agreement. The Agreement is evidenced by, and the Site is described in that certain Memorandum of PCS Site Agreement dated January 29, 1997 and recorded in Book 5788 Page 1766 in the Registry; and

WHEREAS, notice of the Agreement is provided in that Notice of lease recorded in Book 5788, Page 1766, and that Supplement to Notice of Lease recorded in Book 6004, Page 1774; and

WHEREAS, STC Five LLC is the successor-in-interest in the Agreement to SSLP; and

WHEREAS, the Site may be used for the purpose of constructing, maintaining and operating a communications facility, including tower structures, equipment shelters, cabinets, meter boards, utilities, antennas, equipment, any related improvements and structures and uses incidental thereto; and

WHEREAS, the Agreement has an original term, including all Renewal Terms (as defined in the Agreement), that will expire on January 28, 2017 ("Original Term"), and Owner and STC Five LLC now desire to amend the terms of the Agreement to provide for additional Renewal Terms beyond the Original Term, and to make other changes.

NOW THEREFORE, in exchange for the mutual promises contained herein, Owner and STC Five LLC agree to amend the Agreement as follows:

1. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. The recitals in this First Amendment are incorporated herein by this reference. "Sprint Spectrum" shall be replaced throughout the Agreement with "STC Five LLC."

2. Section 2 of the Agreement is amended by replacing "three" with "seven (7)", thereby adding four (4) additional five (5)-year Renewal Terms to the Agreement beyond the Original Term, and extending its total term to January 28, 2037 unless sooner terminated as provided in the Agreement.

3. Section 6 of the Agreement is amended by replacing Owner's and STC Five LLC's notice addresses with the following notice addresses:

Notices to STC Five LLC are to be sent to: STC Five LLC, c/o Crown Castle USA Inc., E. Blake Hawk, General Counsel, Attn: Real Estate Department, 2000 Corporate Drive, Canonsburg, PA 15317; and

Notices to Owner are to be to: City of Nashua, Attn: Bill Mansfield, 0 Panther Drive, Box 785, Nashua, New Hampshire 03061-0785.

4. From and after the date of this First Amendment, during each year of the term of the Agreement, STC Five LLC shall be responsible for having performed, at STC Five LLC's cost and expense, an inspection of the tower structure by an independent third party qualified to make such inspections. STC Five LLC will provide the written results of the inspection to Owner which will provide for any issues arising from the inspection, if any, and if no issues, stating that there are no issues.

5. IRS Form W-9. Owner agrees to provide STC Five LLC with a completed IRS Form W-9, or its equivalent, upon execution of this First Amendment and at such other times as may be reasonably requested by STC Five LLC. In the event the Site is transferred, the succeeding Owner shall have a duty at the time of such transfer to provide STC Five LLC with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in rent to the new Owner. Owner's failure to provide the IRS Form W-9 within thirty (30) days after STC Five LLC's request shall be considered a default and STC Five LLC may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

6. In all other respects, the remainder of the Agreement shall remain in full force and effect. Any portion of the Agreement that is inconsistent with this First Amendment is hereby amended to be consistent with this First Amendment. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Owner and STC Five LLC have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

OWNER:

CITY OF NASHUA,  
a New Hampshire municipality

By: \_\_\_\_\_ (SEAL)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, Owner and STC Five LLC have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

STC FIVE LLC:

STC FIVE LLC,  
a Delaware limited liability company

By: Global Signal Acquisitions II LLC,  
a Delaware limited liability company,  
Its Attorney-in-Fact

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Prepared out of State.

Return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tax Map: Map C-Lot 67

Cross reference Book 5788, Page 1766 and Book 6004,  
Page 1774

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

#### MEMORANDUM OF FIRST AMENDMENT TO PCS SITE AGREEMENT

THIS MEMORANDUM OF FIRST AMENDMENT TO PCS SITE AGREEMENT ("Amended Memorandum") is made effective this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between CITY OF NASHUA, a New Hampshire municipality ("Owner"), with a mailing address of PO Box 785, 0 Panther Drive, Nashua, New Hampshire 03061, and STC FIVE LLC, a Delaware limited liability company ("STC Five LLC"), successor-in-interest to Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), by and through its attorney-in-fact, Global Signal Acquisitions II LLC, a Delaware limited liability company, with a mailing address of c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, Pennsylvania 15317.

WHEREAS, Owner and SSLP entered into a PCS Site Agreement dated January 29, 1997 (as assigned, the "Agreement") whereby Owner leased to SSLP a portion of land being originally described as an approximate 2,500 square feet portion of that property (said leased portion being the "Site") located at 840 West Hollis Street (Tax Identification # Map C-Lot 67), Nashua, in Hillsborough County, New Hampshire, and being further described in Book 2048 Page 397 in the Hillsborough County Registry of Deeds Office ("Registry"), together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Agreement. The Agreement is evidenced by, and the Site is described in that certain Memorandum of PCS Site Agreement dated January 29, 1997 and recorded in Book 5788 Page 1766 in the Registry; and

WHEREAS, notice of the Agreement is provided in that Notice of Lease recorded in Book 5788, Page 1766, and that Supplement to Notice of Lease recorded in Book 6004, Page 1774; and

WHEREAS, STC Five LLC is the successor-in-interest in the Agreement to SSLP; and

WHEREAS, the Site may be used for the purpose of constructing, maintaining and operating a communications facility, including tower structures, equipment shelters, cabinets, meter boards, utilities, antennas, equipment, any related improvements and structures and uses incidental thereto; and

WHEREAS, the Agreement has an original term, including all Renewal Terms (as defined in the Agreement), that will expire on January 28, 2017 ("Original Term"), and Owner and STC Five LLC now desire to amend the terms of the Agreement to provide for additional Renewal Terms beyond the Original Term, and to make other changes; and

WHEREAS, Owner and STC Five LLC made and entered into a First Amendment to PCS Site Agreement of even date herewith ("First Amendment") and pursuant to the terms of, and for that consideration recited in, the First Amendment, the parties wish to hereby amend certain provisions of the Agreement, and provide this Amended Memorandum as notice thereof, as follows:

1. Owner does hereby lease unto STC Five LLC, its successors and assigns, the Site for four (4) additional five (5)-year Renewal Terms beyond the Original Term, such that the Original Term and all Renewal Terms of the Agreement may last for a term of forty (40) years, expiring on January 28, 2037 unless sooner terminated as provided in the Agreement.

2. The description of the Site is recorded in that certain Notice of Lease recorded in the Registry at Book 5788 Page 1766 and Book 6004, Page 1774.

3. This Amended Memorandum contains only selected provisions of the First Amendment, and reference is made to the full text of the Agreement and the First Amendment for their full terms and conditions, which are incorporated herein by this reference. Except as otherwise provided in the First Amendment and this Amended Memorandum, the terms and conditions of the Agreement remain in full force and effect. This Amended Memorandum may be executed in any number of counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Owner and STC Five LLC have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

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|--|--|
|  | OWNER:   |
|  | CITY OF NASHUA,<br>a New Hampshire municipality<br><br>By: _____ (SEAL)<br>Print Name: _____<br>Title: _____ |

State of \_\_\_\_\_

County of \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, of the City of Nashua, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

\_\_\_\_\_  
 (SEAL)  
 Notary Public  
 My Commission Expires: \_\_\_\_\_  
 [AFFIX STAMP OR SEAL]

IN WITNESS WHEREOF, Owner and STC Five LLC have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

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|  | <p>STC FIVE LLC:</p> <p>STC FIVE LLC,<br/>a Delaware limited liability company</p> <p>By: Global Signal Acquisitions II LLC,<br/>a Delaware limited liability company,<br/>Its Attorney-in-Fact</p> <p>By: _____ (SEAL)</p> <p>Name: _____</p> <p>Title: _____</p> |
|--|--|

State of \_\_\_\_\_

County of \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of Global Signal Acquisitions II LLC, a limited liability company, as the Attorney-in-Fact for STC Five LLC, a Delaware limited liability company, and that he, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as \_\_\_\_\_.

In witness whereof I hereunto set my hand and official seal.

\_\_\_\_\_  
(SEAL)  
Notary Public  
My Commission Expires: \_\_\_\_\_  
[AFFIX STAMP OR SEAL]

**RESOLUTION R-10-52**  
**Approving a first amendment and memorandum of first amendment to the site lease agreement with STC FIVE LLC, (successor-in-interest to Sprint Spectrum, L.P.) for the Four Hills Landfill cell tower**

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING AUGUST 10, 2010

Referred to:

**FINANCE COMMITTEE AND BOARD OF PUBLIC WORKS**

2<sup>nd</sup> Reading SEPTEMBER 15, 2010

3<sup>rd</sup> Reading \_\_\_\_\_

4<sup>th</sup> Reading \_\_\_\_\_

Other Action \_\_\_\_\_

Passed SEPTEMBER 15, 2010

Indefinitely Postponed \_\_\_\_\_

Defeated \_\_\_\_\_

Attest: Paul Bergen  
City Clerk

Bill HOC  
President

Approved: Thomas Pozar  
Mayor's Signature

9/16/10  
Date

Endorsed by Thomas Pozar MAYOR  
TABACSKO

Vetoed: \_\_\_\_\_

Veto Sustained: \_\_\_\_\_

Veto Overridden: \_\_\_\_\_

Attest: \_\_\_\_\_

City Clerk

President