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**THE VILLAGE OF BLOOMINGDALE**  
DUPAGE COUNTY, ILLINOIS

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**RESOLUTION**  
NUMBER 2020-R-02

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**A RESOLUTION APROVING AND AUTHORIZING  
THE EXECUTION OF A 2<sup>ND</sup> AMENDMENT TO EXTEND THE  
NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN THE  
VILLAGE OF BLOOMINGDALE AND T-MOBILE CENTRAL LLC.**

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Franco A. Coladipietro, Mayor

Jane E. Michelotti, Village Clerk

Vince Ackerman  
William Belmonte  
Bill Bolen  
Frank Bucaro  
Patrick Shannon  
Judi Von Huben

Village Board

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Published in pamphlet form by authority of the  
President and the Board of Trustees of the Village of Bloomingdale  
on this the 27<sup>th</sup> day of January, 2020

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**RESOLUTION NO. 2020-R-02**

**A RESOLUTION APPROVING AND AUTHORIZING  
THE EXECUTION OF A 2<sup>ND</sup> AMENDMENT TO EXTEND THE NON-  
EXCLUSIVE LICENSE AGREEMENT BETWEEN THE VILLAGE OF  
BLOOMINGDALE AND T-MOBILE CENTRAL LLC.**

**WHEREAS**, the Village of Bloomingdale is a home rule unit of local government with authority granted pursuant to the Illinois Constitution of 1970, to exercise certain powers and perform certain functions pertaining to its local government and affairs;

**WHEREAS**, the Village of Bloomingdale (hereinafter referred to as “Village”) upon approval of the corporate authorities may enter into an Agreement with another party pursuant to Illinois Statute;

**WHEREAS**, the Village is a home rule unit of local government under Article VII, Section 6 of the 1970 Illinois Constitution and, except as limited by such Section, it may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, T-Mobile Central LLC, a Delaware limited liability company (“Licensee”), and the Village entered into a Non-Exclusive License Agreement on, May 22, 2007 as amended by a 1<sup>st</sup> Amendment on September 25, 2015 (collectively, the “Agreement”) with respect to the real property located at, 161 Cardinal Drive, Bloomingdale, IL. Site No. CH5433A, and

**WHEREAS**, the Agreement is due to expire on September 5, 2022, and

**WHEREAS**, this 2<sup>nd</sup> Amendment extends the terms of the Agreement by five (5) years, with up to three (3) additional terms of five (5) years, for a total of twenty (20) years.

**NOW, THEREFORE, BE IT RESOLVED** by the Village President and Board of Trustees of the Village of Bloomingdale, DuPage County, Illinois pursuant to the Village of Bloomingdale’s “Home Rule Powers” as follows:

## **Section One - Recitals**

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to this Resolution are full, true and correct and do hereby, by reference, incorporate and make them part of this Resolution as legislative findings.

## **Section Two – Approval of Agreements**

The Village hereby approves the 2nd Amendment to the Agreement substantially in the form attached hereto and made a part hereof collectively as Exhibit A.

## **Section Three – Authorization and Direction**

The Village President is hereby authorized to execute, and the Village Clerk is hereby authorized to attest the 2<sup>nd</sup> Amendment to the Agreement, substantially in the form of such agreement attached hereto as Exhibit A, with such changes therein as shall be approved by the Village Attorney and the officials of the Village executing the same, their execution thereof to constitute exclusive evidence of their approval to any and all changes or revisions therein from and after the execution and delivery of such Agreement.

## **Section Four - Other Actions Authorized**

The officers, employees and/or agents of the Village shall take all actions necessary or reasonably required to carry out and give effect to the intent of this Resolution and otherwise to consummate the transactions contemplated herein, and shall take all actions necessary in conformity therewith including, without limitation, the execution and delivery of all documents required to be delivered in connection with the transaction contemplated herein.

## **Section Five - Authorization of Expenditures**

The Corporate Authorities hereby authorize and direct the expenditure of all costs related to the execution of the Agreement, additionally, the Village is authorized and directed to allocate and spend all necessary funds to fulfill the requirements of the Agreement and of this Resolution.

**Section Seven - Acts of Village Officials**

That all past, present and future acts and doings of the officials of the Village that are in conformity with the purpose and intent of this Resolution are hereby, in all respects, ratified, approved, authorized and confirmed.

**Section Eight – Effective Date**

This Resolution shall be in full force and effect from and after its passage, approval and publication as provided by law.

**Section Nine - Publication**

This Resolution shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

**Section Ten – Conflict Clause**

All Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section Eleven – Saving Clause**

If any section, paragraph, clause or provision of this Resolution is declared by a court of law to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity of any other provisions of this Resolution, which are hereby declared to be separable.

**Section Twelve – Recording**

This Resolution shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Bloomingdale.


**DECIDED** pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Vince Ackerman	X			X
William Belmonte	X			X
Bill Bolen	X			X
Frank Bucaro	X			X
Patrick Shannon	X			X
Judi Von Huben	X			X
Franco A. Coladipietro (only if necessary)			Recused	
<b>TOTAL</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>6</b>

**PASSED AND APPROVED** by the Village of Bloomingdale Board of Trustees on the 27<sup>th</sup> day of January, 2020.

  
\_\_\_\_\_  
Franco A. Coladipietro, Village President

ATTEST:

  
\_\_\_\_\_  
Jane E. Michelotti, Village Clerk

**Exhibit A**

**2<sup>nd</sup> Amendment to Non-Excluse License Agreement**

**2<sup>ND</sup> AMENDMENT TO NON-EXCLUSIVE LICENSE AGREEMENT**  
**T-MOBILE - CARDINAL WATER TOWER**

This 2<sup>nd</sup> Amendment to Non-Exclusive License Agreement T-Mobile Cardinal Water Tower (the "Amendment"), effective as of the date of execution by the last party to sign (the "Effective Date"), amends the Non-Exclusive License Agreement T-Mobile Cardinal Tower dated May 22, 2007 between Village of Bloomingdale, an Illinois home rule municipality ("Village") and T-Mobile Central LLC, a Delaware limited liability company ("Licensee") (collectively, the "Parties") as amended by the 1<sup>st</sup> Amendment to the Non-Exclusive License Agreement Cardinal Drive Water Tower dated September 25, 2012 (collectively, the "Agreement", regarding Licensor's leased area ("Licensed Premises") located at 161 Cardinal Drive, Bloomingdale, IL 60108 (the "Property").

**BACKGROUND**

WHEREAS, the Agreement commenced on September 6, 2007, and is set to expire on September 5, 2022, and the Licensee and Village desire to extend the term of the Agreement

**AGREEMENT**

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Village and Licensee agree as follows:

**1. Paragraph 2.a of the Agreement is deleted in its entirety and replaced with the following:**

2. a. Provided Licensee is not in default under this Agreement beyond any period allowed hereby for cure, Licensee shall have the non-exclusive right, during the Term to conduct tests and to install, maintain, operate, replace or remove any of its Facilities in or upon the Licensed Premises (as defined in paragraph 1 above) all of which shall belong to and be removable to Licensee in accordance with paragraph 8 of the Agreement. The Village agrees that Licensee shall have such access to the Licensed Premises, as may be reasonably necessary to conduct testes and to install, maintain, operate, replace or remove the Facilities subject to any conditions contained in this Agreement. However, all access shall be restricted so as to require the presence of a Village employee during periods of access. Licensee may obtain access to the Licensed Premises twenty-four (24) hours a day, seven (7) days a week. in accordance with the Village Access Protocol that requires the Licensee's contractor to go to the Bloomingdale Police Department to request access, to complete the "Sign-in" log, and to provide a copy of their driver's license. The Village shall dispatch an employee to the Licensed Premises within two (2) hours. Upon completion of the work, the contractor is required to contact the Police Department at (630) 529-9868, and to stand by until a Village representative arrives to secure the property.

**2. Paragraph 3 is amended by adding 3. c. (1), (2), and (3) as follows:**

c. (1) The term of the current Agreement will expire on September 5, 2022. Notwithstanding anything to the contrary in this Agreement, commencing on September 6, 2022, (the "Extension Commencement Date"), the term of this agreement is extended five (5) years (the "Extended Term"). Thereafter, if the Licensee is not then in default, and/or if this Agreement has not been terminated, the Agreement will automatically renew for up to three (3) additional five (5) year terms (each a "Renewal Term"), provided that the Licensee has not provided the Village with

advance written notice of their desire not to renew at least 90 days prior to the expiration of the **Current Term**, and current **Extended Term or Renewal Term**, in accordance with **Section 3.a. of the Agreement**.

(2) On the Extension Commencement Date, the Licensee shall pay the Village, Forty Eight Thousand Five Hundred Thirty Two and 00/100 Dollars (\$48,532), representing the annual license payment for year one (1) of the Extended Term. Licensee shall pay to the Village an annual license fee in accordance with the payment schedule outlined below. The annual license fee shall be payable to the Village of Bloomingdale, 201 S. Bloomingdale Road, Bloomingdale, Illinois, 60108, Attention Village Treasurer.

<b>Term</b>	<b>Year</b>	<b>Due Date</b>	<b>Annual License Payment</b>
1	1	9/6/2022	\$48,532
1	2	9/6/2023	\$50,376
1	3	9/6/2024	\$52,291
1	4	9/6/2025	\$54,278
1	5	9/6/2026	\$56,340
2	6	9/6/2027	\$58,481
2	7	9/6/2028	\$60,703
2	8	9/6/2029	\$63,010
2	9	9/6/2030	\$65,404
2	10	9/6/2031	\$67,890
3	11	9/6/2032	\$70,470
3	12	9/6/2033	\$73,147
3	13	9/6/2034	\$75,927
3	14	9/6/2035	\$78,812
3	15	9/6/2036	\$81,807
4	16	9/6/2037	\$84,916
4	17	9/6/2038	\$88,143
4	18	9/6/2039	\$91,492
4	19	9/6/2040	\$94,969
4	20	9/6/2041	\$98,578

(3) The Agreement is in full force and effect and neither the Village nor Licensee is in breach under the terms of the Agreement.

**3. Paragraph 30 is hereby deleted in its entirety and replaced with the following:**

a. 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.



- b. Notice shall be given to the following:

If to Licensee:

T-Mobile USA, Inc.  
12920 SE 38th Street  
Bellevue, WA 98006  
Attn: Lease Compliance/ CH54344A

If to Village

Village of Bloomingdale  
201 S. Bloomingdale  
Bloomingdale, Illinois 60108

With a copy to:  
Assistant Village Administrator  
Village of Bloomingdale  
201 S. Bloomingdale  
Bloomingdale, Illinois 60108

c. Licensor or Licensee may from time to time designate any other address for this purpose by providing written notice to the other party.

**4. Paragraph 32 is hereby deleted in its entirety and replaced with the following:**

32. a. In case of any inconsistencies between the terms and conditions contained in the Agreement and the terms and conditions contained in this 2<sup>nd</sup> Amendment, the terms and conditions herein will control.

b. This Agreement may be executed in any number of counterparts and by the Village and Licensee on different counterparts, each of which when executed shall be deemed an original and all of which together shall constitute one and the same agreement.

c. All capitalized terms used in this 2<sup>nd</sup> Amendment, unless otherwise defined herein, will have the same meaning as the terms contained in the Agreement. Changes in the number, gender and grammar of terms and phrases herein when necessary to conform this Agreement to the circumstances of the parties hereto shall in all cases, be assumed as though in each case fully expressed therein.

d. The Agreement shall be construed, governed and enforced according to the laws of the State of Illinois.

e. In construing the License Agreement, section headings shall be disregarded.

f. Any recitals herein or exhibits attached hereto are hereby incorporated into this Agreement by reference.

g. Time is of the essence of the Agreement and every provision contained herein.

h. The parties acknowledge that this Agreement was freely negotiated by both parties, each of whom was represented by counsel; accordingly, the Agreement shall be construed according to the fair meaning of its terms, and not against either party.

i. If any clause, phrase, provision or portion of this Agreement or the application thereof to any person or circumstance, shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Agreement, nor shall it affect the application of any other clause, phrase, provision or portion hereof to other persons or circumstances.

j. 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.

Each of the Parties hereto by the execution below agrees to be bound by all terms of the Non-Exclusive License Agreement as amended herein.

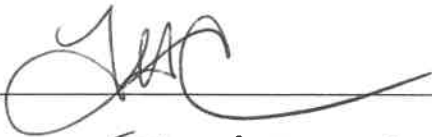
IN WITNESS, the Parties execute this Amendment as of the Effective Date.

**Licensor:**

**Licensee:**

**Village of Bloomingdale, an Illinois home rule municipal corporation**

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

By:   
Print Name: FRANCO A. COLADIPETRO  
Title: VILLAGE PRESIDENT  
Date: JANUARY 27, 2020

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

T-Mobile Contract Attorney as to form