

UNOFFICIAL COPY

**CONSENT,
NONDISTURBANCE,
AND ATTORNMENT
AGREEMENT**



Doc#: 1221418103 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/01/2012 02:08 PM Pg: 1 of 8

This document was prepared by:

Dykema Gossett PLLC
Chase L. Cantrell, Esq.
400 Renaissance Center
Detroit, Michigan 48243
(313) 568-6800

After recording return to:

WHEN REDUCED RETURN TO:
OLD REPUBLIC TITLE
ATTN: POST CLOSING
150 SOUTH MAIN STREET
SUITE 1031
AKRON, OH 44311

ATTN: LISA JABER OR. CI 12091223

See **Exhibit A** for Legal Description, Common Address and Tax Parcel Identification Number

CONSENT, NONDISTURBANCE, AND ATTORNMENT AGREEMENT

This Consent, Nondisturbance and Attornment Agreement (this "**Agreement**"), dated this 6th day of July, 2012 is by and between:

CROWN CASTLE TOWERS 09 LLC, a Delaware limited liability company, with a notice address of c/o Crown Castle USA Inc., E. Blake Hawk, General Counsel, Attn: Legal – Real Estate Department, 2000 Corporate Drive, Canonsburg, Washington County, Pennsylvania 15317 (hereinafter "**Grantee**");

and

STATE BANK OF COUNTRYSIDE, as Trustee under Trust Agreement dated December 1, 1991 and known as Trust Number 91-1106, with a notice address of c/o Centennial Lanes, Inc., 16050 Centennial Circle, Tinley Park, Illinois 60477 (hereinafter "**Grantor**");

and

STATE BANK OF COUNTRYSIDE, an ILLINOIS CHARTERED BANK, with a principal place of business located at 6734 Joliet Road, Countryside, Illinois 60525 (hereinafter "**Lender**").

UNOFFICIAL COPY

RECITALS:

WHEREAS, STC Two LLC, a Delaware limited liability company ("**STC Two**"), is in possession of certain property (the "**Property**") more specifically described on Exhibit A attached hereto, pursuant to that certain PCS Site Agreement dated June 8, 1998, originally by and between SprintCom, Inc., a Kansas corporation ("**SprintCom**"), as original lessee, and Grantor, as original lessor (as amended and/or assigned, the "**Lease**"), a memorandum of which was recorded on May 18, 1999 as Instrument No. 99480767 in the Public Records of Cook County, Illinois, as amended by that certain Amendment to PCS Site Agreement dated May 10, 2001, as further amended by that certain Second Amendment to PCS Site Agreement dated April 6, 2009, a memorandum of which was recorded on December 10, 2009 as Instrument No. 0934403045 in the Public Records of Cook County, Illinois, and as assigned to STC Two by SprintCom pursuant to a General Assignment and Assumption Agreement dated May 26, 2005.

WHEREAS, Grantee is purchasing from Grantor a perpetual easement ("**Easement**") over the Property and an assignment (the "**Assignment**") of Grantor's interest in the Lease pursuant to a certain Grant of Easement and Assignment of Lease by and between Grantor and Grantee ("**Easement Agreement**");

WHEREAS, the Property is part of a parcel which is encumbered by one or more mortgages, deeds of trust, deeds to secure debt, assignment of rents or similar security agreements (collectively, the "**Security Instrument**") from Grantor in favor of Lender, notice of which was recorded in the Public Records of Cook County, Illinois (i) on October 8, 2003 as Instrument No. 0328119132, (ii) on October 8, 2003 as Instrument No. 0328119133, (iii) on November 23, 2010 as Instrument No. 1032742088, (iv) on November 23, 2010 as Instrument No. 1032742089, (v) on November 29, 2010 as Instrument No. 1033312037, and (vi) on November 29, 2010 as Instrument No. 1033312038; and

WHEREAS, the parties desire to establish certain rights, safeguards, obligations and priorities with regard to their respective interests by means of this Agreement and are willing to so agree on the terms and conditions hereafter provided.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged and for other good and valuable consideration, the parties, intending to be legally bound hereby, covenant and agree as follows:

1. Consent. Lender consents to the Easement and Assignment.
2. Nondisturbance. So long as the Easement is in full force and effect and Grantee is not in material default of any of its terms, obligations, covenants or conditions under the Easement, Lender agrees for itself and its successors in interest and for any other person acquiring title to the Property through a conveyance (an "**Acquiring Party**"), that the right of possession of the Property and all other rights of Grantee under the Easement and Assignment shall remain in full force and effect and shall not be affected or disturbed by Lender in the

UNOFFICIAL COPY

exercise of its rights under the Security Instrument during the term of the Easement, by reason of a Conveyance as defined herein. For purposes of this agreement, a "**Conveyance**" shall mean any of the following, including, but not limited to, any exercise by Lender of its rights under the Security Instrument, including a foreclosure, sheriff's or trustee's sale under the power of sale contained in the Security Instrument, the termination of any superior lease of the Property and any other transfer, sale or conveyance of the Grantor's interest in the Property under peril of foreclosure, including, without limitation to the generality of the foregoing, an assignment or sale in lieu of foreclosure. Lender or any Acquiring Party and Grantee agree that any Conveyance shall be made subject to the Easement, the Assignment and the rights of Grantee under the Easement and the Assignment and the parties shall be bound to one another and have the same remedies against one another for any breach of the Easement and the Assignment as such parties had before the Conveyance; provided, however, that Lender or any Acquiring Party shall not be liable for any act or omission of any prior land owner. Lender will not join any land owner as a party in any action or proceeding to foreclose unless such joinder is necessary to foreclose on the Security Instrument and then only for such purpose and not for the purpose of terminating the Easement or voiding the Assignment.

3. Attornment. Upon receipt by Grantee of notice to attorn from Lender or any Acquiring Party, along with reasonable supporting documentation, the parties agree to not seek to terminate the Easement or void the Assignment, to remain bound by the Easement and the Assignment and Grantee agrees to attorn to, accept and recognize Lender or any Acquiring Party as the land owner under the Easement pursuant to the provisions expressly set forth therein for the term of the Easement. The parties agree, however, to execute and deliver, at any time and from time to time, upon the request of another party any reasonable instrument which may be necessary or appropriate to evidence such attornment.

4. Release of Lease. To the extent the Security Instrument in any way includes the Lease or any other lease related to communications towers, antennas, and related equipment on the Property (the Lease and such other leases are collectively referred to herein as the "**Easement Leases**"), including the rents, profits, and revenue derived from the Easement Leases as security for the debt evidenced by the Security Instrument, the Easement Leases and the rents, profits, and revenue derived therefrom are hereby released and forever discharged from the lien evidenced by the Security Instrument, given the intent that the Easement Leases and the rents, profits, and revenue derived therefrom, can, and shall be conveyed to Grantee by Grantor simultaneously with the execution of the Easement, free and clear of the lien evidenced by the Security Instrument. Furthermore, in the event Grantor has previously assigned any rights, rents, profits, and revenue from the Easement Leases to Lender, the Lender hereby reassigns such rights, rents, profits, and revenue to Grantee.

5. Limitation. This Agreement shall not apply to any equipment, trade fixtures or other personal property now or hereafter located on or affixed to the Property or any portion thereof regardless of the manner in which same are attached or affixed to the Property and Lender hereby expressly waives any interest in same, agrees that the same do not constitute realty and acknowledges that Grantee is authorized to remove said personal property.

UNOFFICIAL COPY

6. Binding Effect. This Agreement will be binding upon and will inure to the benefit of the successors and assigns of the parties hereto or any person or entity which acquires title to or the right to possession of the Property whether directly or indirectly through Lender and to any assignees, licensees, agents, subleaseholders, tenants or subtenants of Grantee (but subject in all respects to the provisions of Section 26 of the Easement Agreement).

7. Notices. All notices which are required or permitted to be given or served hereunder shall be in writing and shall be deemed to have been given or served (i) by hand delivery on the date of hand delivery, (ii) one business day after delivery to an overnight courier for next business day delivery, or (iii) three days after deposit in United States Mail via certified mail, return receipt requested to the address given above. Any party hereto may change the address set forth above from time to time by serving written notice of the change upon the other parties hereto.

8. Counterparts. This Agreement may be executed in separate and multiple counterparts, each of which shall be deemed an original but all of which taken together shall be deemed to constitute one and the same instrument.

9. Governing Law. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the state where the Property is located.

[Remainder of Page Left Intentionally Blank]

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have hereunder set their hands and seals as of the date first set forth above.

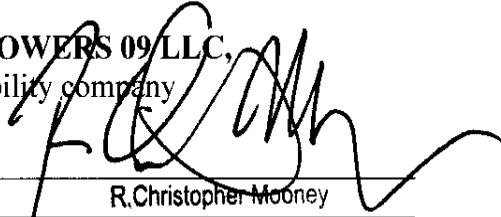
GRANTEE:

CROWN CASTLE TOWERS 09 LLC,
a Delaware limited liability company

By:

Print Name:

Print Title:



R. Christopher Mooney

Vice President

ACKNOWLEDGEMENT

State of Texas
County of Harris

On this, the 5 day of JULY, 2012, before me KELSER MCMILLER,
Notary Public, the undersigned officer, personally appeared R. CHRISTOPHER MOONEY,
who acknowledged him/herself to be the VICE PRESIDENT
of Crown Castle Towers 09 LLC, a Delaware limited liability company, and that he/she being
authorized to do so, executed the foregoing Consent, Nondisturbance and Attornment Agreement
for the purposes therein contained.

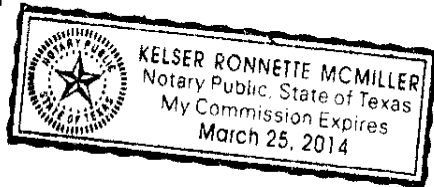
IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires: 3-25-14

[SEAL REQUIRED]



UNOFFICIAL COPY

LENDER:

STATE BANK OF COUNTRYSIDE,

an ILLINOIS CHARTERED BANK

By:

Print Name:

Print Title:

Daniel E. Harrington
DANIEL E. HARRINGTON
V.P.

ACKNOWLEDGEMENT

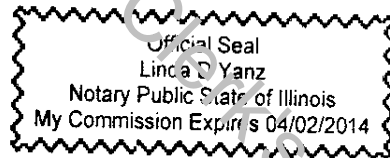
State of Illinois
County of Cook

On this, the 27 day of June 2012, before me [Signature],
Notary Public, the undersigned officer, personally appeared DANIEL E. HARRINGTON,
who acknowledged him/herself to be the V.P.
of State Bank of Countryside, an ILLINOIS CHARTERED BANK, and that he/she being
authorized to do so, executed the foregoing Consent, Nondisturbance and Attornment Agreement
for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Linda D. Yanz
Notary Public

My Commission Expires: 04/02/2014



[SEAL REQUIRED]

UNOFFICIAL COPY

EXHIBIT A (Description of Property)

THAT PART OF LOT 3 IN CENTENNIAL OFFICE PARK, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON STAKE AT THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH 88 DEGREES 31 MINUTES 42 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT, 459.93 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 1 DEGREES 18 MINUTES 59 SECONDS EAST 43.60 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH EDGE OF A CONCRETE CURB; THENCE SOUTH 88 DEGREES 41 MINUTES 01 SECONDS WEST, ALONG SAID EXTENSION AND NORTH EDGE, 31.00 FEET; THENCE NORTH 1 DEGREES 18 MINUTES 59 SECONDS WEST 43.52 FEET TO THE NORTH LINE OF SAID LOT; THENCE NORTH 88 DEGREES 31 MINUTES 42 SECONDS EAST, ALONG SAID NORTH LINE, 31.00 FEET TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS, AND CONTAINING 1350 SQUARE FEET (OR 0.03 ACRES), MORE OR LESS.

Part of Tax Parcel Identification Number: 28-19-100-052-0000
Common Address: 16050 Centennial Circle, Tinley Park, Illinois 60477