

RESOLUTION NO. 2006- 126

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING A SECOND AMENDMENT TO THE TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT WITH NEXTEL SOUTH CORPORATION TO MODIFY THE AGREEMENT AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, on October 21, 1998, St. Johns County, entered into a Tower Attachment Communications Site Agreement with Nextel South Corp., to install, maintain, operate and remove wireless communications equipment and appurtenances on Owner's tower located on the Premises at 5430 Palm Valley Road, Ponte Vedra Beach, Florida 32082, attached hereto as Exhibit "B" incorporated by reference and made a part hereof; and

WHEREAS, the First Amendment to Tower Attachment Communications Site Agreement was executed on March 18, 2002, for the placement of certain telecommunications facilities and other improvements, attached hereto as Exhibit "C", incorporated by reference and made a part hereof; and

WHEREAS, the Second Amendment, a attached hereto as Exhibit "A", incorporated by reference and made a part hereof, to modify and amend the Agreement to increase the square footage for installation of a generator, adjust the Rent and update Lessee's notice address.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms of the Second Amendment and authorizes the County Administrator to execute the Amendment on behalf of the County. All other provisions of the Lease shall remain in full force.

Section 3. The Clerk is instructed to record the Second Amendment to Lease in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of May, 2006.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk
By: Peterson A. Grande
Deputy Clerk

Exhibit "A" to the Resolution

**SECOND AMENDMENT
TO TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT**

This Second Amendment to Tower Attachment Communications Site Agreement ("Second Amendment") is made as of this ____ day of _____, 2006, by and between **St. Johns County**, a political subdivision of the State of Florida, through its Board of County Commissioners ("Owner") and **Nextel South Corp.**, a Georgia corporation, (hereinafter referred to as "Lessee", which term shall include its successors and assigns where the context so admits).

WITNESSETH:

WHEREAS, Owner and Lessee entered into that certain Tower Attachment Communications Site Agreement dated October 21, 1998 as amended by that certain First Amendment to Tower Attachment Communications Site Agreement dated March 18, 2002 (collectively, the "Agreement"), for approximately three hundred eighty-eight (388) square feet of land (the "Building Site") and space on Owner's tower (the "Tower") (located on the property, and all access and utility easements (collectively, the "Premises"), located in the City of Ponte Vedra Beach, County of St. Johns, State of Florida, more commonly known as 5430 Palm Valley Road, Ponte Vedra Beach, Florida 32082 (the "Property"); and

WHEREAS, Owner and Lessee agree that the Agreement provides that Lessee shall have the right to operate communications services at the Premises; and

WHEREAS, the parties now desire to modify and amend the Agreement in order to increase the square footage of the Premises, adjust the Rent, and update Lessee's notice address.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 1 of the Agreement, Grant, is amended to reflect the addition of a lease area on the ground of approximately one hundred thirty (130) square feet for the installation of a generator and supporting equipment as further illustrated on Exhibit A2-1 attached and incorporated herein.
2. Paragraph 5 of the Agreement, Rent, is amended to reflect an increase of Two Hundred and 00/100 Dollars (\$200.00) per month to the Rent currently in effect as of the start of construction of the modifications under this Second Amendment.
3. Paragraph 18 of the Agreement, Notices, is amended to reflect Lessee's current notice address as follows:

Lessee: Nextel South Corp.
851 Trafalgar Court
Suite 300E
Maitland, FL 32751
Attn: Property Manager

With a copy to: Sprint
2001 Edmund Halley Drive
Reston, VA 20191-3436
Attn: Regional Legal Services, Contracts Manager

4. Exhibit A2 to the Agreement, Nextel Lease Parcel, is supplemented with the attached Exhibit A2-1. Any and all references to Exhibit A2 shall hereinafter include Exhibit A2-1.

5. Effective as of the date of this Second Amendment, Lessee has the right to do all work necessary to prepare, maintain and alter the Premises in accordance with this Second Amendment and as may be necessary for Lessee's business operations at the Premises. All alterations, changes and equipment modifications made pursuant to this Second Amendment shall be made in compliance with the terms, covenants and conditions of the Agreement, as hereby amended, and shall remain Lessee's personal property and are not fixtures. Owner and Lessee further affirm that title to the Lessee communications facility (including any modifications made in accordance with this Second Amendment) shall be held by Lessee.

6. Miscellaneous.

(a) All capitalized terms used herein, unless otherwise defined herein, shall be defined in conformity with the terms and conditions of the Agreement.

(b) In case of any inconsistencies between the terms and conditions contained in the Agreement and the terms and conditions contained herein, the terms and conditions herein shall control. Except as set forth herein, all provisions of the Agreement remain unchanged and in full force and effect.

(c) Lessee shall have the right to record a new or an amended Memorandum of Agreement in the official Records of the County where the Property is located. Owner agrees to execute an amended Memorandum of Agreement for recording upon request by Lessee.

(d) This Second Amendment may be executed in multiple counterparts, each copy of which shall be deemed an original document.

(SIGNATURES ON FOLLOWING PAGES)

IN WITNESS WHEREOF, the parties have executed this Second Amendment as a sealed instrument as of the day and year first written above.

OWNER:

Signed, sealed and delivered in the presence of:

St. John's County, a political subdivision of the State of Florida, through its Board of County Commissioners

Attest:

By: _____

By: _____

Print Name: _____

Print Name: _____

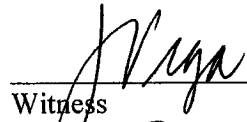
Date: _____, 2006

Title: _____

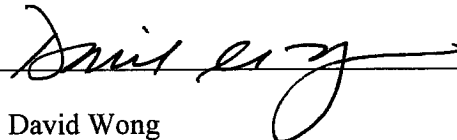
LESSEE:

Signed, sealed and delivered in the presence of:


Nextel South Corp., a Georgia corporation




Witness

By: 

Print Name: David Wong

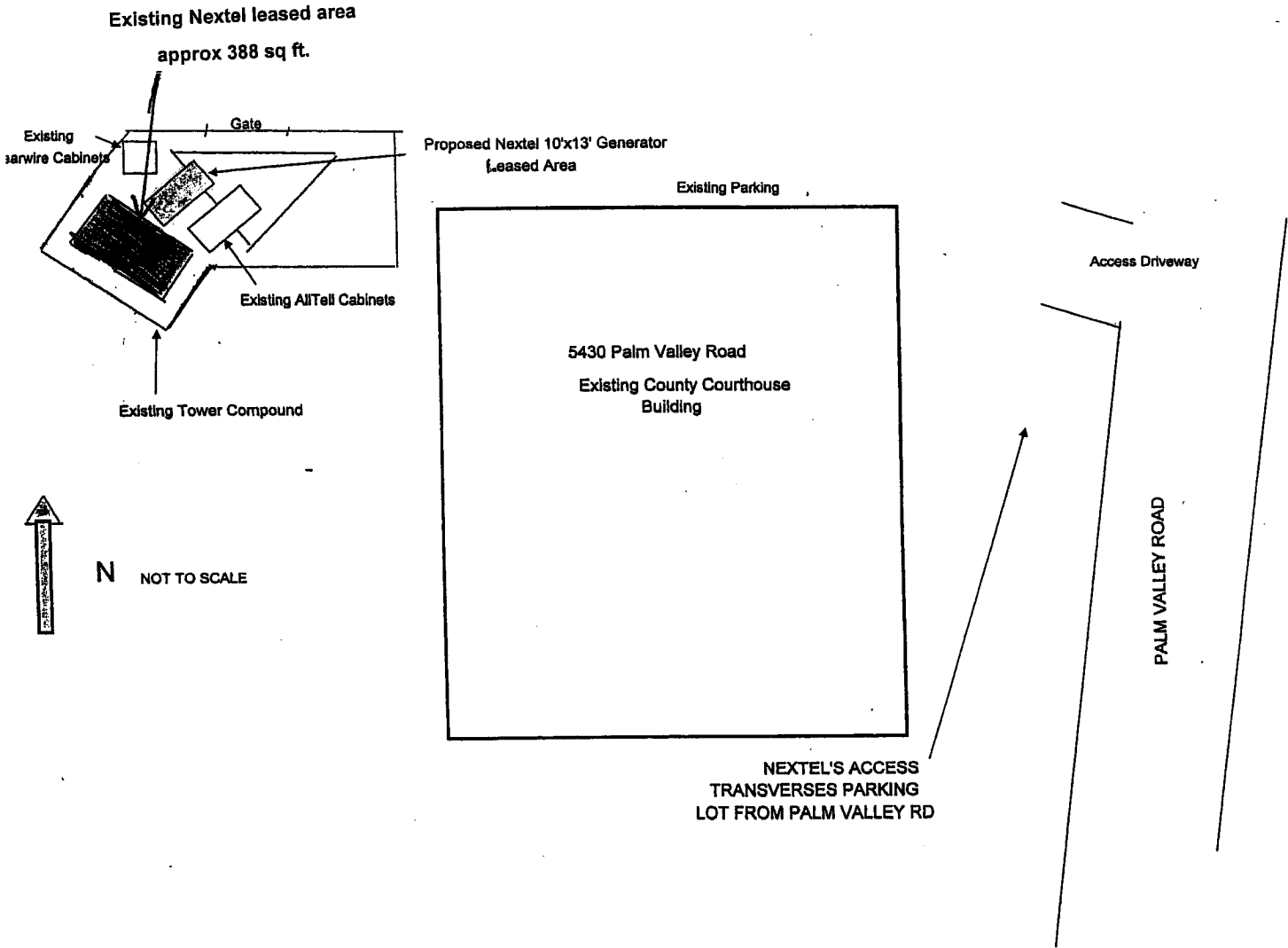
Print Name: 

Title: Area Manager Site Development

Witness
Print Name: 

Date: 3/20, 2006

EXHIBIT A2-1 Supplement Site Sketch



Nextel Site Name: Ponte Vedra
Nextel Site Number: FL7041A

**RECORDED AT REQUEST OF, AND
WHEN RECORDED RETURN TO:**
Nextel South Corp., a Georgia corporation
851 Trafalgar Court, 300E
Maitland, Florida 32751
Attn: Property Manager

**MEMORANDUM OF SECOND AMENDMENT TO
TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT
FL7041A/Ponte Vedra**

This MEMORANDUM OF SECOND AMENDMENT To Tower Attachment Communications Site Agreement is entered into on this ____ day of _____, 2006, by St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners (hereinafter referred to as Owner) and Nextel South Corp., a Georgia corporation, with an office at 851 Trafalgar Court, Suite 300E, Maitland, Florida 32751 (hereinafter referred to as Lessee).

WHEREAS, Owner and Lessee hereby modify the Memorandum of Agreement dated October 21, 1998 to include the following:

1. Exhibit B – 1, Site Sketch, attached hereto.

In witness whereof, the parties have executed this Memorandum of Second Amendment to Tower Attachment Communications Site Agreement of the day and year first written above.

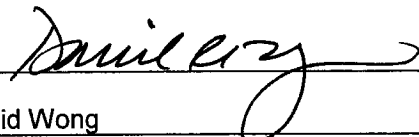
OWNER

St. Johns County, a political subdivision
of the State of Florida through its Board
of County Commissioners

By: _____
Name: _____
Title: _____
Date: _____

LESSEE

Nextel South Corp.,
a Georgia corporation

By: 
Name: David Wong
Title: Area Manager Site Development
Date: 3/20/06

Nextel Site Name: Ponte Vedra
Nextel Site Number: FL7041A

STATE OF
COUNTY OF

On _____, before me, _____, Notary Public, personally appeared _____ as _____ for St. Johns County, a political subdivision of the State of Florida, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

_____(SEAL)
Notary Public

My commission expires: _____

STATE OF FLORIDA
COUNTY OF ORANGE

On March 20, 06 before me, Kristen Beyer Notary Public, personally appeared David Wong, as Area Manager Site Development for Nextel South Corp., a Georgia corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Kristen Beyer _____ (SEAL)
Notary Public

My commission expires: 01/22/06



Nextel Site Name: Ponte Vedra
Nextel Site Number: FL7041A

Memorandum to Second Amendment to Tower Attachment Communications Site Agreement Exhibit B-1

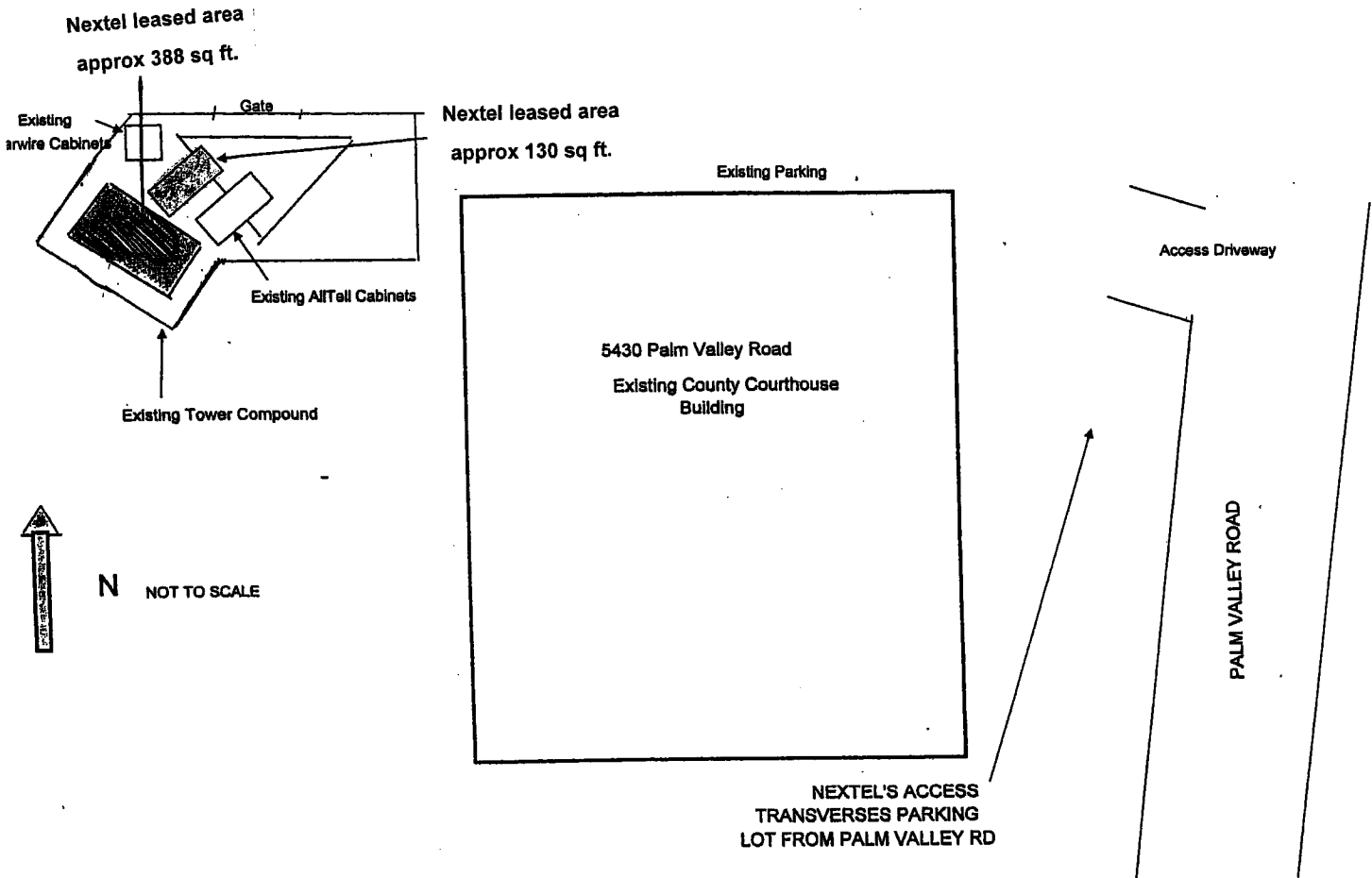


Exhibit "B" to the Resolution

Market: Jacksonville
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Site Name: Ponte Vedra

**TOWER ATTACHMENT
COMMUNICATIONS SITE AGREEMENT**

THIS TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT ("Agreement" or "Lease") is entered into this 21 day of October 1998, by and between St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, with an address of 4020 Lewis Speedway St. Augustine, Florida 32095 ("Owner") and Nextel South Corp., a Georgia Corporation d/b/a Nextel Communications, with an address of 851 Trafalgar Court, Suite 300E, Maitland, FL 32751 ("Lessee").

1. Grant. Subject to the following terms and conditions, Owner hereby grants Lessee the nonexclusive right to install, maintain, operate and remove wireless communications equipment and appurtenances on Owner's tower (the "Tower") located on the property described in Exhibit "A" (the "Premises"), and leases to Lessee a portion of the Premises (the "Building Site") for construction and occupancy of an equipment shelter or building to house Lessee's equipment on the Premises as more particularly described in Exhibit "A". Lessee may use only levels 190 feet to 220 feet of the Tower and its horizontally contiguous air space as depicted on Exhibit D for its antennas and receivers. Owner shall continue to have the right to occupy the Premises and the Tower and to grant others rights to occupy or utilize the Premises and the Tower at Owner's sole discretion subject to the provisions of paragraph 8. Owner also grants to Lessee a non-exclusive easement during the term of this Lease for ingress, egress and regress and for the installation and transmission of utilities on property described on attached Exhibit "B" ("Easement"). Lessee may install equipment, personal property, improvements, alterations or fixtures as listed on Exhibit "C" (the "Equipment"), or as Owner may otherwise approve, such approval not to be unreasonably withheld, conditioned or denied. Any personal property owned by Lessee, whether or not fixed or attached to the Building Site or Tower, shall remain the property of Lessee prior to termination of this Agreement without regard to whether it appears on Exhibit "C". Lessee has the right to remove all of its equipment at its sole expense on or before the expiration or earlier termination of the Agreement, provided the Lessee repairs any damage to the Premises caused by such removal.

2. Use. Lessee shall use the Equipment and the Building Site for the purpose of constructing, installing, maintaining, improving and operating, at Lessee's expense, a communications facility, including antennae, buildings and incidental uses. Lessee shall be solely responsible for securing any and all building permits and approvals, zoning changes or approvals, variances, use permits, and other governmental permits from applicable governmental authorities, including any Federal Aviation Administration approval (collectively "Permits") prior to any construction on the Premises. Owner agrees to reasonably cooperate with Lessee in obtaining the Permits, and copies of the Permits shall be provided to Owner upon request. Lessee shall promptly

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pay all costs and expenses and shall not cause or permit any lien to be created against the Tower or the Premises. In the event a lien is filed against the Tower or Premises due to Lessee's failure to pay costs and expenses, Lessee shall within thirty (30) days of receipt of notice of said lien cause the lien to be removed.

3. Term. The term of this Agreement shall be five (5) years, commencing October 16th, 1998 (the "Commencement Date") and terminating at midnight on October 15th, 2003 ("Initial Term").

4. Renewal Term(s). Lessee shall have the right to extend this Agreement for four (4) additional terms of five (5) years each ("Renewal Term(s)") on the same terms and conditions as set forth in this Agreement except that the Rent shall be as specified in Paragraph 5 below. This Agreement shall automatically be renewed for each successive Renewal Term unless Lessee notifies Owner of Lessee's intention not to renew the Agreement at least thirty (30) days prior to expiration of the then current term.

5. Rent.

(a) Initial Term. Beginning on the Commencement Date, Lessee shall pay to Owner as rental the sum of three thousand, five hundred dollars (\$3,500.00) plus applicable sales tax for a total amount of three thousand, seven hundred and ten dollars (\$3,710.00) per month ("Rent"). Rent payments shall be made monthly in advance to the Owner's notice address as specified below and shall be prorated for any partial month at the commencement or termination of this Lease, based on the number of days in that month.

(b) Renewal Term. In the event that Lessee elects to renew this Lease as provided in paragraph 4, Rent shall increase by an amount equal to **fifteen percent (15%)** over the Rent to be paid by Lessee during the immediately preceding Term or Renewal Term. Lessee shall pay Owner Rent during each Renewal Term ("RT") according to the following schedule plus applicable sales tax:

First RT	\$4,025.00 per month	Third RT	\$5,323.06 per month
Second RT	\$4,628.75 per month	Fourth RT	\$6,121.52 per month

6. Tower Maintenance. Owner represents and warrants that its operation of the Tower, exclusive of Lessee's Equipment, and exclusive of other Tower tenants, but including the lighting system, meets and will be maintained in accordance with all applicable laws, rules and regulations, including, without limitation, rules and regulations of the Federal Communications Commission, Federal Aviation Administration and all applicable local codes and regulations. Owner shall maintain its tower lighting system and Tower in good operating condition. The costs of maintaining the Tower shall be borne by Owner with the exception of Lessee's antennae and Equipment, and except for damage to the Tower caused by Lessee, or Lessee's tenants, employees, contractors or

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subcontractors. Should Owner fail to timely make repairs required by this Agreement, Lessee may, at Lessee's option, make such repairs and Owner shall promptly reimburse Lessee for its costs and expenses incurred in such repair.

In the event Owner fails to maintain the tower lighting systems or Tower as provided herein, Lessee shall have the right to withhold Rent payments to Owner if Owner fails to make said repairs or to provide maintenance after Lessee has given Owner fifteen (15) days notice of the need to provide maintenance and repairs. Lessee shall have the right to apply such Rent withheld hereunder to make the necessary repairs and provide the necessary maintenance and Lessee shall not thereafter be responsible to Owner for the Rent withheld and used for such maintenance and repairs. Lessee's activities and operations and Lessee's Equipment shall not unreasonably interfere with Owner's maintenance and repair of the Tower and its lighting system and Owner's maintenance and repair of the tower and its lighting system shall not unreasonably interfere with Lessee's signal.

7. Conditions Precedent. Lessee's obligations to perform under this Agreement shall be subject to and conditioned upon:

(a) Lessee's securing appropriate approvals for Lessee's intended use of its Equipment on the Premises from the Federal Communications Commission, the Federal Aviation Administration, and any other federal, state or local regulatory agency having jurisdiction over Lessee's proposed use of the Equipment;

(b) Lessee's obtaining, at its option, a title report or commitment for a leasehold title policy from a title insurance company of Lessee's choice which must show no defects or restrictions of title or any liens or encumbrances which may adversely affect Lessee's use of the Premises or Lessee's ability to obtain financing, provided Lessee shall order such a policy within five (5) business days of the date of this Agreement. If such commitment or report is not ordered in that period or is not obtained within thirty (30) days of the date of this Agreement, this item shall not act as a condition precedent to this contract;

(c) Lessee's obtaining, at its option, a survey, soil borings and analysis tests which must show no defects which, in the reasonable opinion of Lessee, may adversely affect Lessee's use of the Premises, provided Lessee shall order such tests within five (5) business days of the date of this Agreement. If such survey, borings and tests are not ordered in that period or are not obtained within thirty (30) days of the date of this Agreement, this item shall not act as a condition precedent to this contract;

(d) Lessee's approval of the condition of the Premises, which may be subject to, at Lessee's option, an environmental audit of the Premises performed by an environmental consulting firm of Lessee's choice;

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(e) Lessee's determination that the Tower is structurally appropriate for Lessee's needs.

In the event of a failure of any of the above referenced conditions precedent within sixty (60) days of the date of this Agreement, Lessee may terminate this Agreement through written notice to Owner. If Lessee fails to provide such notice within sixty (60) days of the date of this Agreement, each of the above conditions precedent shall be deemed satisfied and no Rent shall be abated. In the event of a failure of a condition precedent set forth above, Owner shall refund any fees previously paid to Owner by Lessee under this Agreement upon termination.

8. Interference. Lessee agrees to install Equipment only of types, power and generating frequencies which will not cause interference to transmissions or signals from or to Owner and other current users of the Tower and Lessee will not modify such Equipment, power or frequencies in a manner that will cause unreasonable interference to now current and later current users of the Tower. Additionally, Lessee will not substantially modify the power, frequencies or location of its Equipment without the prior consent of the Owner, which consent shall not be unreasonably withheld. Lessee confirms that the equipment, power and generating frequencies of the current users of the Tower, and the currently proposed equipment, power, frequencies and locations on the Tower to be used by Powertel, or ALLTEL and the Owner will not cause interference to transmission or signals to or from Lessee's Tower Equipment. At Owner's request, Lessee shall provide a detailed interference analysis showing potential conflicts between Lessee's power and frequencies and those of the Owner or other users of the Tower. In the event Lessee's Equipment causes interference in violation of this Agreement, Lessee will take all steps necessary to correct and eliminate the interference. If the interference cannot be eliminated within 48 hours after receipt of written notice from Owner to Lessee ("Notice Date"), Lessee shall temporarily disconnect the electric power and shut down the offending Equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference) and if such interference is not corrected within 30 days after receipt of the written notice, Lessee agrees to promptly remove the Equipment causing such interference from the Tower and the Premises at Owner's request. After the Equipment has been installed, Owner shall place similar covenants upon frequency interference on others thereafter newly contracting with Owner to use Owner's Tower ("Third Parties") pertaining to new equipment installed by such Third Parties on the Tower after Lessee's installation of the Equipment. In the event any Third Parties' interference to Lessee's Equipment cannot be eliminated or rectified to Lessee's reasonable satisfaction within 48 hours after receipt of written notice from Lessee to Owner ("Notice Date"), Owner shall cause such Third Parties to temporarily disconnect the electric power and shut down the Third Parties' offending Equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference) and if such interference is not corrected within 30 days after receipt of the written notice, Owner shall at the request of Lessee require the Third Party causing the interference to promptly remove the equipment

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causing such interference from the Tower and the Premises. In the event the Third Party fails to remove such equipment from the Tower and the Premises within 45 days from Lessee's request to Owner, or to otherwise rectify the offending interference, Lessee shall have the option for a period of 30 days to terminate this Lease by providing notice of such termination to Owner.

9. Utilities and Access.

(a) Owner represents that utilities adequate for Lessee's intended use of the Premises are presently available. Further, from time to time, Lessee shall have the right to install utilities, to be separately metered at Lessee's expense, and to improve present utilities on the Premises, including but not limited to the installation of emergency power generators. Lessee shall have the right to permanently place utilities on, or to bring utilities across or under, the Building Site and the Easement in order to service the Equipment throughout the Initial Term or any Renewal Term of this Agreement. Owner shall, upon Lessee's request, execute a separate written easement or license in a form which may be filed of record evidencing this right. Lessee shall be responsible for all utility connection charges and all utility use charges, for electricity or any other utility used by Lessee.

(b) Lessee, its employees, agents, subcontractors, lenders and other reasonably necessary invitees shall have reasonable vehicular and pedestrian access to the Tower, the Building Site and the Equipment at all times, 24 hours each day, through the access drive presently existing on the Easement. Owner shall maintain the access drive in good condition throughout the Initial Term of this Agreement or any Renewal Term. Lessee may, at its option and own expense, construct a suitable private access drive to the Premises and the Equipment within the Easement. Owner agrees to maintain the current access so that no undue interference is caused to Lessee by other tenants, licensees, invitees or agents of the Owner.

10. Termination. Except as otherwise provided, this Agreement may be terminated, without any penalty or further liability, upon written notice as follows:

(a) By either party upon a default of any covenant or term of this Agreement by the other party which default is not cured within 30 days of receipt of written notice of default (without, however, limiting any other rights available to the parties pursuant to any other provisions of this Agreement); or

(b) By Lessee if the Premises or Tower are damaged by casualty so as to hinder, in Lessee's reasonable judgement, for more than 30 continuous days the effective use of the Equipment; or

(c) After six months prior written notice to the Lessor, if cancellation is necessitated (1) by changes to prevalent telecommunications technology which make use of the

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subject tower site substantially useless to the Lessee, or (2) by changes in applicable federal, state, or local laws, regulations, or rules which make use of the tower site substantially useless to the Lessee.

11. **Abatement of Rent.** If for any reason due to the fault of the Owner or third party users of the Tower or due to natural causes without fault of the Lessee, rent shall be abated for that portion of the tower hereby granted for use by Lessee beginning 48 hours after such denial of use begins running until such denial of use ends. The amount of such rent abatement shall be measured in 24 hour units, rounded to the lowest whole number of units.

12. Tower Analysis.

(a) Lessee shall be solely responsible to ensure that Lessee's installation of the Equipment shall not significantly effect the structural integrity of the Tower, and that no such damage results to the Tower due to installation of the Equipment. Owner agrees to furnish Lessee, promptly upon Lessee's request, with true and accurate copies of any tower analyses performed on the Tower within the two years preceding the request and Lessee's attachment of antennas or Equipment on the Tower. In the absence of such an analysis or if the most recent analyses are insufficient for Lessee's needs, Lessee may at its expense obtain a new analysis. If Owner reasonably believes that the structural integrity of the Tower will be effected, Owner may require Lessee to obtain a new analysis at Lessee's expense. Owner agrees to cooperate with Lessee in acquiring the new analysis of the Tower. If a new analysis of the Tower is requested by Lessee or required by Owner, Lessee shall be responsible for coordinating that new analysis by a licenses structural engineer or other party acceptable to Owner, and Lessee shall furnish a copy of the analysis to Owner. The costs of the new analysis shall be paid solely by Lessee. If Lessee requests, Owner shall obtain, within 30 days of Lessee's request, bids for any needed reinforcement or other work to make the Tower structurally sound. Should Lessee not terminate this Agreement under Section 6 Tower Maintenance above, Owner or with Owners consent the Lessee shall reinforce or otherwise make the Tower structurally sound for Lessee's use in accordance with the lowest responsible bid. Lessee shall promptly pay or reimburse Owner the costs and expenses of such work.

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(b) Owner shall notify Lessee in writing prior to attaching, or permitting any other person or entity to attach, any additional antennas, microwave dishes, or other similar equipment ("Additional Antennas") to the Tower. Should Additional Antennas be attached to the Tower, and Lessee reasonably believes that such attachment endangers the structural integrity of the Tower, upon Lessee's written request, Owner shall furnish, at Lessee's expense, a tower analysis performed on the Tower by a licensed structural engineer, or other party acceptable to Lessee, indicating that attachment of the Additional Antennas to the tower does not impair the structural integrity of the Tower and will not materially diminish the Tower's function or useful life. All such tower analyses shall be in compliance with current industry standards.

13. Taxes. Lessee shall pay any personal assessments or property taxes assessed on, or any portion of such assessments or taxes attributable to, Lessee's Equipment. Owner shall pay when due all real property taxes and all other fees and assessments attributable to the Premises. Lessee shall pay as additional Rent any increase in real property taxes levied against Premises which are directly attributable to Lessee's use of the Property and Owner agrees to furnish proof of such increase to Lessee.

14. Liability Insurance. During the Initial Term and all Renewal Terms of this Agreement, Owner and Lessee shall each maintain, at its own expense, insurance covering claims for public liability, personal injury, death and property damage under a policy of general liability insurance, with limits of not less than \$1,000,000.00 per person and \$2,000,000.00 per occurrence, and property damage insurance of not less than \$500,000.00. Such insurance shall insure against liabilities arising out of or in connection with Owner and Lessee's use or occupancy of the Premises and the Tower subject to the standard exceptions found in commercial general liability insurance policies.

15. Condemnation. If a condemning authority takes, or acquires by deed in lieu of condemnation, all of the Premises, or a portion sufficient to render the Premises or the Tower, in the reasonable opinion of Lessee, unsuitable for the use which Lessee was then making on the Premises or the Tower, Lessee may terminate this Agreement effective as of the date the title vests in the condemning authority. Owner and Lessee shall share in the condemnation proceeds as determined by agreement of the parties, or in the absence of such agreement, by the Court in which the condemnation proceedings are held.

16. Environmental Matters.

(a) Owner represents that, to the best of Owner's knowledge, no Hazardous Materials are presently located on the Premises or Easement. Lessee and Owner both covenant not to cause Hazardous Materials to be brought on the Premises or Easement, with the exception of cleaning solutions, solvents, or other substances typically used in the normal course of Owner or Lessee's business. The Owner will also not permit any third party to use, generate, move, or dispose

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of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. Any Hazardous Materials shall be properly contained and disposed of in a legal manner off site. As used in this Agreement, "Hazardous Materials" shall mean any and all polychlorinated biphenyls, petroleum products, asbestos, urea formaldehyde and other hazardous or toxic materials, wastes or substances, any pollutants, and/or contaminants, or any other similar substances or materials which are defined or identified as such in or regulated by any federal, state or local laws, rules or regulations (whether now existing or hereinafter enacted) pertaining to environmental regulations, contamination, cleanup or any judicial or administrative interpretation of such laws, rules or regulations or any substance that after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or directly through food chains will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities.

(b) Lessee shall comply with all laws, ordinances, rules, orders or regulations applicable to Hazardous Materials. Lessee shall not use the Premises or the Easement for treatment, storage, transportation to or from, use or disposal of Hazardous Materials (other than petroleum products necessary for the operation of an emergency electrical generator to serve the Equipment). Lessee shall be responsible for any expense incident to the abatement or compliance with the requirements of any federal, state or local statutory or regulatory requirements causes, directly or indirectly, by the activities of the Lessee or Lessee's agents, employees or contractors.

17. Hold Harmless.

(a) By Owner. To the extent allowed by Florida law, the Owner agrees to defend, indemnify and hold Lessee and its officers, agents and employees harmless from and against any and all, costs, charges, expenses, losses, claims, actions, suits, causes of action, judgments and charges of every kind and nature whatsoever, excluding attorneys fees, which in any manner arise out of any intentional misconduct by Owner pertaining to this Agreement or from any defect in the title to the Premises, or from the presence of any Hazardous Materials on the Premises caused by the Owner. The Owner will also be liable for its negligence as provided by Florida Law.

(b) By Lessee. Lessee agrees to defend, indemnify and hold Owner and its Tower users, their officers, agents and employees harmless from and against any and all costs, damages, expenses, losses, claims, actions, suits, causes of action, judgments, and charges of every kind and nature whatsoever, excluding attorneys fees, which may in any manner arise out of or relate to Lessee's use of the Equipment, Easement or Premises or the performance or non-performance of this Agreement by Lessee, Lessee's subcontractors, employees, agents, or assigns, including without limitation, those that may arise out of the use or furnishing of materials, and as to such claims, actions or causes of action arising from or resulting from any negligence or intentional misconduct by Lessee, its subcontractors, agents, servants, employees, or any or all of them.

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Site Number: FL-7041A
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18. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, by certified mail, return receipt requested, or by overnight service having a record of receipt to the addresses indicated below:

If to Owner, to:

St. Johns County Administrative Center
4020 Lewis Speedway
St. Augustine, Florida 32095
Attn: County Administrator

Consumer's Certification of Exemption -- 65-06-012004-53C
Federal Tax I.D. (or Exemption Number).

If to Lessee, to:

Nextel South Corporation
851 Trafalger Court
Suite 300E
Maitland, Florida 32751
Attn: Property Manager

With a copy to: Nextel Communications, Inc.
1505 Farm Credit Drive
McLean, Virginia 22101
Attn: Legal Department Contracts Manager

19. Title. Owner warrants it has the full right, power and authority to execute this Agreement and that it has good and unencumbered title to the Premises free and clear of any liens, encumbrances or mortgages.

20. Assignment. Lessee may not assign or otherwise transfer all or any part of its interest in this Agreement or in the Premises without the prior written consent of Owner; provided, however, that to the extent allowed by Florida law, Lessee may assign its interest in its parent company, any subsidiary, affiliate of it or its parent company or to any successor in interest or entity acquiring 51% or more of its stock or assets subject to any financing entities interest, if any, in this Agreement. Owner may assign this Agreement upon written notice to Lessee subject to the assignee assuming all the Owner's obligations herein. Notwithstanding anything to the contrary contained in this Agreement, but to the extent allowed by Florida law, Lessee may assign mortgage, pledge, hypothecate, or otherwise transfer without consent its interest in this Agreement to any financing entity or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed

Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

money or in respect of guarantees thereof, (ii) has obligations evidenced by bonds, notes or similar interests or (iii) has obligations under or with respect to letters of credit, bankers, acceptances and similar facilities or in respect of guaranty's thereof.

21. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

22. Compliance with Laws. All installations and operations in connection with this Agreement by either party shall be conducted in accordance with all applicable rules and regulations of the Federal Communications Commission, Federal Aviation Administration, and any other applicable federal, state and local laws, codes and regulations. Lessee is solely responsible for the licensing, operation and maintenance of Lessee's Equipment, including, without limitation, compliance with any terms of its Federal Communications Commission license with respect to tower light observation and any notification to the Federal Aviation Administration in that regard. Lessee's Equipment, transmission lines, and any related devices, and the installation, maintenance and operation thereof, shall not damage the Tower or any property or properties adjoining, or interfere with the use of the Tower and the remainder of the Premises, by Owner or others. ~~and~~ Lessee shall defend, indemnify and hold harmless Owner from any such damage.

23. Holding Over. In the event Lessee remains on the Tower and in possession of the shelter or building on the Premises after the expiration of the Initial Term or a Renewal Term without executing a new Agreement, Lessee shall, unless objected to by Owner, occupy the Premises month-to-month, subject to all of the terms and conditions of this Agreement insofar as so consistent.

24. Estoppel. Each party agrees to furnish to the other, within 10 days after request, such truthful estoppel information as the other may reasonably request.

Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

25. Miscellaneous.

(a) This Agreement constitutes the entire agreement and understanding of Owner and Lessee, and supersedes all offers, negotiations and other agreements. Any amendments to this Agreement must be in writing and executed by Owner and Lessee.

(b) If either Owner or Lessee is represented by a real estate broker or agent in this transaction, that party shall be fully responsible for any fees or commission due such broker or agent and to the extent allowed by Florida Law shall hold the other party harmless from any such claims arising from execution of this Agreement.

(c) Lessee may record this Agreement or a Memorandum of Agreement executed by all parties.

(d) This Agreement shall be construed in accordance with the laws of the State of Florida.

(e) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(g) The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control the meaning or construction of any of the provisions hereof.

26. Notwithstanding any other provision of this agreement the Lessee shall be responsible for the cost and implementation of all site or tower changes or improvements necessary for its use of the tower site. Such changes shall be substantially in accordance with Exhibit D attached hereto and incorporated herein by reference. The Lessee who agrees to independently cooperate and coordinate tower site installation with other Lessees installing their facilities during the same period, and the County will be given the opportunity to require that a two (2) inches diameter conduit be installed at the County's cost to serve future Lessees.

27. Lien Waiver.

(a) Owner waives any lien rights it may have concerning Lessee's equipment which are deemed Lessee's personal property and not fixtures and Lessee has the right to remove same at any time without Owner's consent.

(b) Owner acknowledges that Lessee has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of Lessee's equipment ("Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities.) In connection therewith, Owner (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral as fixtures

Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

or otherwise, and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment or distress for any Rent due or to become due and that such Collateral may be removed at anytime without recourse to legal proceedings.

28. Notwithstanding any other provision of this Agreement, its terms shall be subject and subordinate to terms of the Lessor's original or properly amended bid documents for the subject Premises and the Lessor's prior agreements with Powertel, Inc.

Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

IN WITNESS WHEREOF, Owner and Lessee have executed this Tower Attachment Communications Site Agreement effective as of the day and year first above written.

OWNER: St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners

Attest: Cheryl Strickland, Clerk.

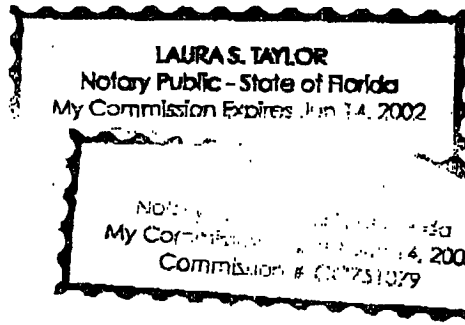
By: *[Signature]*
Deputy Clerk

By: *[Signature]*
Name: Ben Adams
Title: County Administrator
Date: 10/20/98

State of Florida
County of St. Johns

The foregoing instrument was acknowledged before me this 20th day of Oct, 1998, by **Ben Adams**, as County Administrator of St. Johns County, a political subdivision of the State of Florida, on behalf of it Board of County Commissioners. He/she is personally known to me or has produced _____ as identification.

[Signature] Notary Public
Laura S. Taylor
(Name of Notary, typed or printed)
Commission Number: _____
Commission Expires: _____



Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

LESSEE: **Nextel South Corp., a Georgia Corporation d/b/a Nextel Communications**

Attest: *Anthony A. Rajs*

Name: Anthony A. Rajs
Date: 10-16-98

Madelyn

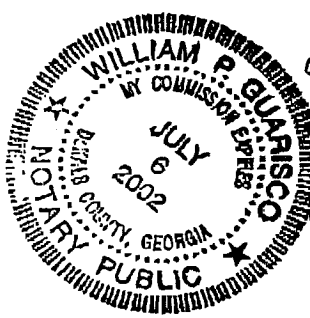
Name: Madelyn Pezdelara
Date: 10/16/98

{Corporate Seal}

By: *John Cafaro*
Name: John Cafaro
Title: Vice President
Date: 10/16/98

State of Georgia
County of Clayton

The foregoing instrument was acknowledged before me this 16 day of October, 1998 by John Cafaro, as Vice President, who is personally known to me or who has produced _____ as identification.



William P. Guarisco, Notary Public
(Name of Notary, typed or printed)
Commission Number: _____
Commission Expires: _____

Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

to the AGREEMENT dated October 21, 1998, by and between **St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, with an address of 4020 Lewis Speedway St. Augustine, Florida 32095 ("Owner")** and **Nextel South Corp., a Georgia Corporation d/b/a Nextel Communications, with an address of 851 Trafalgar Court, Suite 300E, Maitland, FL 32751 ("Lessee")**.

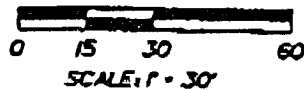
The property referred to as Premises is described as follows:

See attached Exhibit A1

The property referred to as Building Site is described as follows:

See attached Exhibit A2

Ponte Vedre
FL7041A
Exhibit A1



LEGAL DESCRIPTION
(AS PROVIDED BY CLIENT)

PARENT TRACT

A PART OF THE CHRISTINA HILL GRANT, SECTION 70, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF T.P.C. BOULEVARD, AS PLATTED BY WATER OAK, AS RECORDED IN MAP BOOK 14, PAGES 51, 52, 53 AND 54 OF THE PUBLIC RECORDS OF SAID COUNTY, WITH THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A, AS NOW ESTABLISHED AS A 200 FOOT RIGHT OF-WAY; THENCE SOUTH 00 DEGREES 40 MINUTES 10 SECONDS WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 863.72 FEET TO AN ANGLE POINT IN SAID RIGHT-OF-WAY LINE; THENCE SOUTH 07 DEGREES 09 MINUTES 54 SECONDS WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF A-1-A AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE OLD PALM VALLEY ROAD, COUNTY ROAD NO. 210, AS THE SAME AS NOW ESTABLISHED AS A 66 FOOT RIGHT-OF-WAY, A DISTANCE OF 1902.25 FEET TO THE POINT OF CURVE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 1493.46 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A CHORD BEARING OF SOUTH 12 DEGREES 27 MINUTES 24 SECONDS WEST AND A CHORD DISTANCE OF 275.46 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 17 DEGREES 44 MINUTES 53 SECONDS WEST, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF THE OLD PALM VALLEY ROAD, A DISTANCE OF 831.05 FEET; THENCE NORTH 72 DEGREES 15 MINUTES 07 SECONDS WEST, DEPARTING FROM SAID WESTERLY RIGHT OF-WAY LINE OF OLD PALM VALLEY ROAD, 78.97 FEET; THENCE NORTH 17 DEGREES 31 MINUTES 38 SECONDS EAST, 72.09 FEET; THENCE NORTH 29 DEGREES 47 MINUTES 50 SECONDS WEST, 24.65 FEET; THENCE NORTH 72 DEGREES 25 MINUTES 12 SECONDS WEST, 91.05 FEET; THENCE SOUTH 17 DEGREES 34 MINUTES 48 SECONDS WEST, 8.79 FEET; THENCE SOUTH 72 DEGREES 24 MINUTES 45 SECONDS EAST, 5.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 17 DEGREES 35 MINUTES 15 SECONDS WEST, 15.00 FEET; THENCE NORTH 72 DEGREES 24 MINUTES 45 SECONDS WEST, 5.50 FEET; THENCE SOUTH 17 DEGREES 35 MINUTES 15 SECONDS WEST, 32.20 FEET; THENCE NORTH 72 DEGREES 24 MINUTES 45 SECONDS WEST, 23.01 FEET; THENCE NORTH 12 DEGREES 24 MINUTES 45 SECONDS WEST, 44.99 FEET; THENCE NORTH 17 DEGREES 35 MINUTES 15 SECONDS EAST, 8.24 FEET; THENCE SOUTH 72 DEGREES 24 MINUTES 45 SECONDS EAST, 51.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1791.96 SQUARE FEET MORE OR LESS.

Exhibit "C" to the Resolution

Market: North Florida
 Site No.: FL-7041A
 Site Name: Ponte Vedra

FIRST AMENDMENT TO TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT

This First Amendment to Tower Attachment Communications Site Agreement, hereinafter referred to as "First Amendment", is made this 13th day of NOV 2002, by and between **St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners**, with an address of 4020 Lewis Speedway St. Augustine, Florida 32095, (hereinafter referred to as "Owner") and **Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications**, whose address is 851 Trafalgar Court, Suite 300E, Maitland, Florida 32751 (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Owner and Lessee entered into a Tower Attachment Communications Site Agreement (hereinafter referred to as "Agreement") on October 21, 1998, for the placement of certain telecommunications facilities and other improvements on the Premises owned by Owner; and

WHEREAS, Lessee is seeking to amend the Agreement to allow for the installation of twelve (12) decibel products antennas that will be fed by twelve (12) 1 5/8" coaxial cables mounted between levels 190' and 220', with a centerline of 205', as depicted in Exhibits D1 and D2 of the Agreement;

WHEREAS, the parties now desire to modify and amend the Agreement;

NOW, THEREFORE, in consideration of the execution of this First Amendment, and the mutual promises, terms, covenants and conditions contained herein, the parties hereto do hereby agree as follows:

1. The foregoing recitations are true and correct and are hereby incorporated by reference.
2. Lessee has the right to install twelve (12) decibel products antennas that will be fed by twelve (12) 1 5/8" coaxial cables, and mounted to the Tower between levels 190' and 220', with a centerline of 205', as described in the Amended Exhibit "C" attached hereto, and as depicted in Exhibits D1 and D2 of the Agreement. Exhibit "C" of the Agreement is deleted in its entirety and hereby replaced with the attached Amended Exhibit "C."
3. Delete paragraphs 5(a) and 5(b) in their entirety and replace with the following:

5(a) Initial Term. Beginning on installation of equipment described in paragraph 2, Lessee shall pay to Owner as rental the sum of five thousand dollars (\$5,000.00) per month plus any applicable sales tax ("Rent") for the remainder of the Initial Term. Rent payments shall be made monthly in advance to the Owner's notice address as specified in Paragraph 18 of the Agreement, and shall be prorated for any partial month at the commencement or termination of the Agreement, based on the number of days in that month.

5(b) Renewal Term. In the event that Lessee elects to renew the Agreement as provided in paragraph 4, Rent shall increase by an amount equal to fifteen percent (15%) over the Rent to be paid by Lessee during the immediately preceding Term or Renewal Term. Lessee shall pay Owner Rent during each Renewal Term ("RT") according to the following schedule plus applicable sales tax:

First RT:	\$5,750.00 per month	Third RT:	\$7,604.38 per month
Second RT:	\$6,612.50 per month	Fourth RT:	\$8,745.03 per month

4. It is the intention of the parties hereto, that in the event of any conflict between the terms of the Agreement and this First Amendment, this First Amendment shall prevail and any conflicting language, terms or provisions in the Agreement shall be inoperative. Capitalized terms in this First Amendment shall have the same meaning as are given in the Agreement, unless otherwise defined in this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the Agreement on the date and year first above written.

Market: North Florida
Site No.: FL-7041A
Site Name: Ponte Vedra

OWNER: St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners,

Signed sealed and delivered in the presence of:

By: [Signature]
Print Name: BEN W. ADAMS, JR.
Title: COUNTY ADMINISTRATOR

Witness
Print Name: SANDRA SHEFFIELD

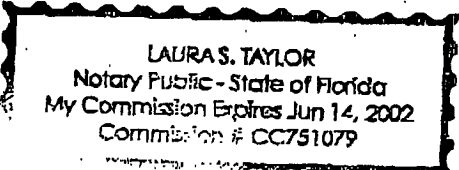
[Signature]
Witness

Print Name: Patricia A. Heiss Patricia A. Heiss

STATE OF FL
COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 18th day of March, 2002, by Ben W. Adams, Jr., as County Administrator of St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

WITNESS my hand and official seal.
[Signature]
Notary Public



Print Name
My commission expires: _____

LESSEE: Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications

By: [Signature]
Print Name: Richard A. Konkey
Title: Area Vice President

Signed sealed and delivered in the presence of:

Witness
Print Name: Margaret Steen

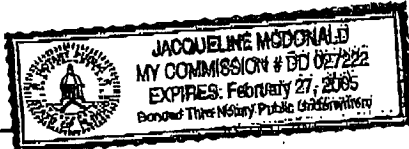
[Signature]
Witness

Print Name: Nichole Davis

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 1st day of MARCH, 2002, by Richard A. Konkey, as Area Vice President of Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

WITNESS my hand and official seal.
[Signature]
Notary Public



Print Name: Jacqueline McDonald
My commission expires: February 27, 2005

Market: North Florida
Site No.: FL-7041A
Site Name: Ponte Vedra

AMENDED EXHIBIT "C"

LESSEE'S PERSONAL PROPERTY and EQUIPMENT

To the First Amendment to Tower Attachment Communications Site Agreement, dated _____, 2002, by and between St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners ("Owner") and Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications ("Lessee").

Schedule of Equipment:

1. Twelve (12) Decibel Products Antennas that will be fed by twelve (12) 1 5/8" coaxial cables, and mounted to the Tower between levels 190' and 220', with a centerline of 205';
2. Three (3) Celwave Tower Top Amplifiers fed by one (1) 1/2" coaxial cable;
3. One (1) Andrew ten foot by twenty foot (10' x 20') prefabricated equipment shelter; and
4. Miscellaneous conduit from shelter to commercial telephone and power connection points.

**AGENDA ITEM
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

Deadline for Submission - Friday 9 a.m. - Eleven Days Prior to BCC Meeting

May 2, 2006

BCC MEETING DATE

TO: Ben W. Adams, Jr., County Administrator **DATE:** April 19, 2006

FROM: Mary Ann Blount, Land Management Director **PHONE:** 209-0762

SUBJECT OR TITLE: **A Resolution by the Board of County Commissioners of St. Johns County, Florida, approving a Second Amendment to the Tower Attachment Communications Site Agreement with Nextel South Corp., to modify the Agreement and authorizing the County Administrator to execute the Agreement on behalf of the County.**

				Legal Review
<u> </u> BUSINESS ITEM	<u> </u> BONDS	<u> </u> PUBLIC HEARING	<u> </u> ORDINANCE	()
<u> x </u> CONSENT AGENDA	<u> </u> APPOINTMENTS	<u> </u> BID AWARD	<u> x </u> RESOLUTION	() <i>MDH</i>
<u> </u> WORKSHOP	<u> </u> REPORT	<u> </u> EX PARTE COMMUNICATIONS	<u> </u> CONTRACT	() <i>MDH</i>
			<u> </u> BONDS	()

BACKGROUND INFORMATION: (Attach additional pages if necessary)

On August 25, 1998, the Board approved Resolution 98-159, authorizing the County Administrator to negotiate and execute contracts relating to Telecommunications use of a portion of the County owned tower at 5430 Palm Valley Road, Ponte Vedra Beach.

This request is for a Second Amendment to the Agreement/Lease in order to install a pad and generator at the Palm Valley Tower site for hurricane preparedness.

It is in the best interest of the general public to approve this Amendment.

1. IS FUNDING REQUIRED?	<u> </u> YES <u> </u> NO	2. IF YES, INDICATE IF BUDGETED	<u> </u> YES <u> </u> NO
IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED		OMB REVIEW ()	
INDICATE FUNDING SOURCE - LIST ACCOUNT TITLE & NUMBER:			

SUGGESTED MOTION/RECOMMENDATION/ACTION:
Motion to adopt Resolution No. 2006-_____ approving a Second Amendment to the Tower Attachment Communications Site Agreement with Nextel South Corp., to modify the Agreement and authorizing the County Administrator to execute the Agreement on behalf of the County.

Administration: _____ Initials

RESOLUTION NO. 2006-_____

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING A SECOND AMENDMENT TO THE TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT WITH NEXTEL SOUTH CORPORATION TO MODIFY THE AGREEMENT AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, on October 21, 1998, St. Johns County, entered into a Tower Attachment Communications Site Agreement with Nextel South Corp., to install, maintain, operate and remove wireless communications equipment and appurtenances on Owner's tower located on the Premises at 5430 Palm Valley Road, Ponte Vedra Beach, Florida 32082, attached hereto as Exhibit "B" incorporated by reference and made a part hereof; and

WHEREAS, the First Amendment to Tower Attachment Communications Site Agreement was executed on March 18, 2002, for the placement of certain telecommunications facilities and other improvements, attached hereto as Exhibit "C", incorporated by reference and made a part hereof; and

WHEREAS, the Second Amendment, a attached hereto as Exhibit "A", incorporated by reference and made a part hereof, to modify and amend the Agreement to increase the square footage for installation of a generator, adjust the Rent and update Lessee's notice address.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms of the Second Amendment and authorizes the County Administrator to execute the Amendment on behalf of the County. All other provisions of the Lease shall remain in full force.

Section 3. The Clerk is instructed to record the Second Amendment to Lease in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this _____ day of _____, 2006.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

Exhibit "A" to the Resolution

**SECOND AMENDMENT
TO TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT**

This Second Amendment to Tower Attachment Communications Site Agreement ("Second Amendment") is made as of this ____ day of _____, 2006, by and between **St. Johns County**, a political subdivision of the State of Florida, through its Board of County Commissioners ("Owner") and **Nextel South Corp.**, a Georgia corporation, (hereinafter referred to as "Lessee", which term shall include its successors and assigns where the context so admits).

WITNESSETH:

WHEREAS, Owner and Lessee entered into that certain Tower Attachment Communications Site Agreement dated October 21, 1998 as amended by that certain First Amendment to Tower Attachment Communications Site Agreement dated March 18, 2002 (collectively, the "Agreement"), for approximately three hundred eighty-eight (388) square feet of land (the "Building Site") and space on Owner's tower (the "Tower") (located on the property, and all access and utility easements (collectively, the "Premises"), located in the City of Ponte Vedra Beach, County of St. Johns, State of Florida, more commonly known as 5430 Palm Valley Road, Ponte Vedra Beach, Florida 32082 (the "Property"); and

WHEREAS, Owner and Lessee agree that the Agreement provides that Lessee shall have the right to operate communications services at the Premises; and

WHEREAS, the parties now desire to modify and amend the Agreement in order to increase the square footage of the Premises, adjust the Rent, and update Lessee's notice address.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 1 of the Agreement, Grant, is amended to reflect the addition of a lease area on the ground of approximately one hundred thirty (130) square feet for the installation of a generator and supporting equipment as further illustrated on Exhibit A2-1 attached and incorporated herein.
2. Paragraph 5 of the Agreement, Rent, is amended to reflect an increase of Two Hundred and 00/100 Dollars (\$200.00) per month to the Rent currently in effect as of the start of construction of the modifications under this Second Amendment.
3. Paragraph 18 of the Agreement, Notices, is amended to reflect Lessee's current notice address as follows:

Lessee: Nextel South Corp.
851 Trafalgar Court
Suite 300E
Maitland, FL 32751
Attn: Property Manager

With a copy to: Sprint
2001 Edmund Halley Drive
Reston, VA 20191-3436
Attn: Regional Legal Services, Contracts Manager

4. Exhibit A2 to the Agreement, Nextel Lease Parcel, is supplemented with the attached Exhibit A2-1. Any and all references to Exhibit A2 shall hereinafter include Exhibit A2-1.

5. Effective as of the date of this Second Amendment, Lessee has the right to do all work necessary to prepare, maintain and alter the Premises in accordance with this Second Amendment and as may be necessary for Lessee's business operations at the Premises. All alterations, changes and equipment modifications made pursuant to this Second Amendment shall be made in compliance with the terms, covenants and conditions of the Agreement, as hereby amended, and shall remain Lessee's personal property and are not fixtures. Owner and Lessee further affirm that title to the Lessee communications facility (including any modifications made in accordance with this Second Amendment) shall be held by Lessee.

6. Miscellaneous.

(a) All capitalized terms used herein, unless otherwise defined herein, shall be defined in conformity with the terms and conditions of the Agreement.

(b) In case of any inconsistencies between the terms and conditions contained in the Agreement and the terms and conditions contained herein, the terms and conditions herein shall control. Except as set forth herein, all provisions of the Agreement remain unchanged and in full force and effect.

(c) Lessee shall have the right to record a new or an amended Memorandum of Agreement in the official Records of the County where the Property is located. Owner agrees to execute an amended Memorandum of Agreement for recording upon request by Lessee.

(d) This Second Amendment may be executed in multiple counterparts, each copy of which shall be deemed an original document.

(SIGNATURES ON FOLLOWING PAGES)

IN WITNESS WHEREOF, the parties have executed this Second Amendment as a sealed instrument as of the day and year first written above.

OWNER:

Signed, sealed and delivered in the presence of:

St. John's County, a political subdivision of the State of Florida, through its Board of County Commissioners

Attest:

By: _____

By: _____

Print Name: _____

Print Name: _____

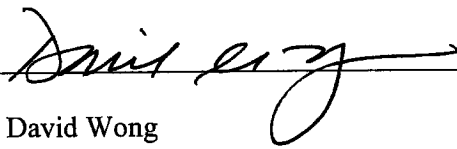
Date: _____, 2006

Title: _____

LESSEE:

Signed, sealed and delivered in the presence of:

Nextel South Corp., a Georgia corporation

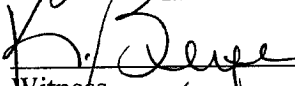


Witness

By: _____

Print Name: David Wong

Print Name: David Wong



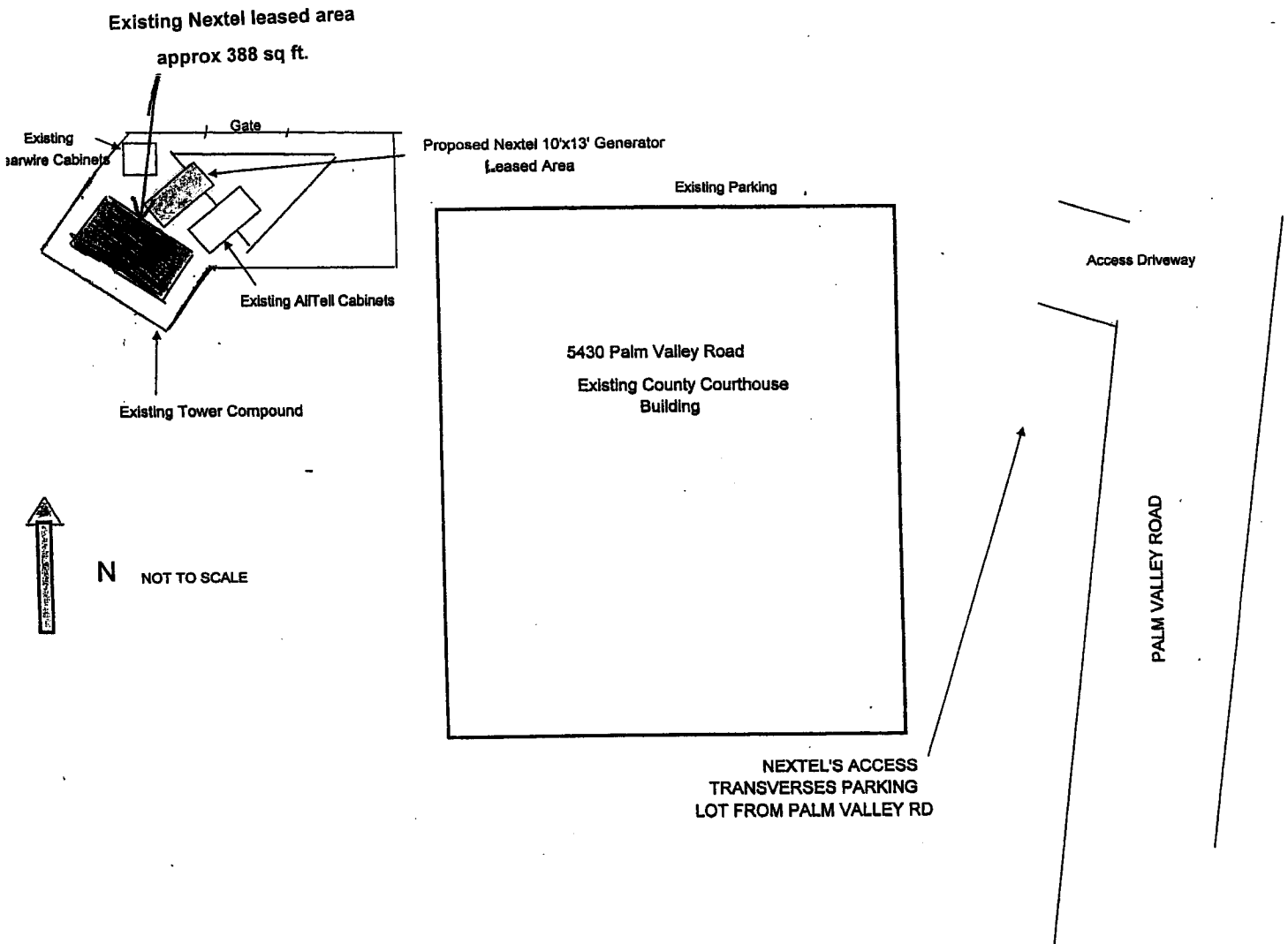
Witness

Title: Area Manager Site Development

Print Name: Kristen Beyer

Date: 3/20, 2006

EXHIBIT A2-1 Supplement Site Sketch



Nextel Site Name: Ponte Vedra
Nextel Site Number: FL7041A

**RECORDED AT REQUEST OF, AND
WHEN RECORDED RETURN TO:**
Nextel South Corp., a Georgia corporation
851 Trafalgar Court, 300E
Maitland, Florida 32751
Attn: Property Manager

**MEMORANDUM OF SECOND AMENDMENT TO
TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT
FL7041A/Ponte Vedra**

This MEMORANDUM OF SECOND AMENDMENT To Tower Attachment Communications Site Agreement is entered into on this ___ day of _____, 2006, by St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners (hereinafter referred to as Owner) and Nextel South Corp., a Georgia corporation, with an office at 851 Trafalgar Court, Suite 300E, Maitland, Florida 32751 (hereinafter referred to as Lessee).

WHEREAS, Owner and Lessee hereby modify the Memorandum of Agreement dated October 21, 1998 to include the following:

1. Exhibit B – 1, Site Sketch, attached hereto.

In witness whereof, the parties have executed this Memorandum of Second Amendment to Tower Attachment Communications Site Agreement of the day and year first written above.

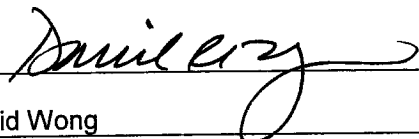
OWNER

St. Johns County, a political subdivision
of the State of Florida through its Board
of County Commissioners

By: _____
Name: _____
Title: _____
Date: _____

LESSEE

Nextel South Corp.,
a Georgia corporation

By: 
Name: David Wong
Title: Area Manager Site Development
Date: 3/20/06

Nextel Site Name: Ponte Vedra
Nextel Site Number: FL7041A

STATE OF
COUNTY OF

On _____, before me, _____, Notary Public, personally appeared _____ as _____ for St. Johns County, a political subdivision of the State of Florida, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

_____(SEAL)
Notary Public

My commission expires: _____

STATE OF FLORIDA
COUNTY OF ORANGE

On March 20, 06 before me, Kristen Beyer Notary Public, personally appeared David Wong as Area Manager Site Development for Nextel South Corp., a Georgia corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Kristen Beyer _____ (SEAL)
Notary Public

My commission expires: 01/22/06



Nextel Site Name: Ponte Vedra
Nextel Site Number: FL7041A

Memorandum to Second Amendment to Tower Attachment Communications Site Agreement Exhibit B-1

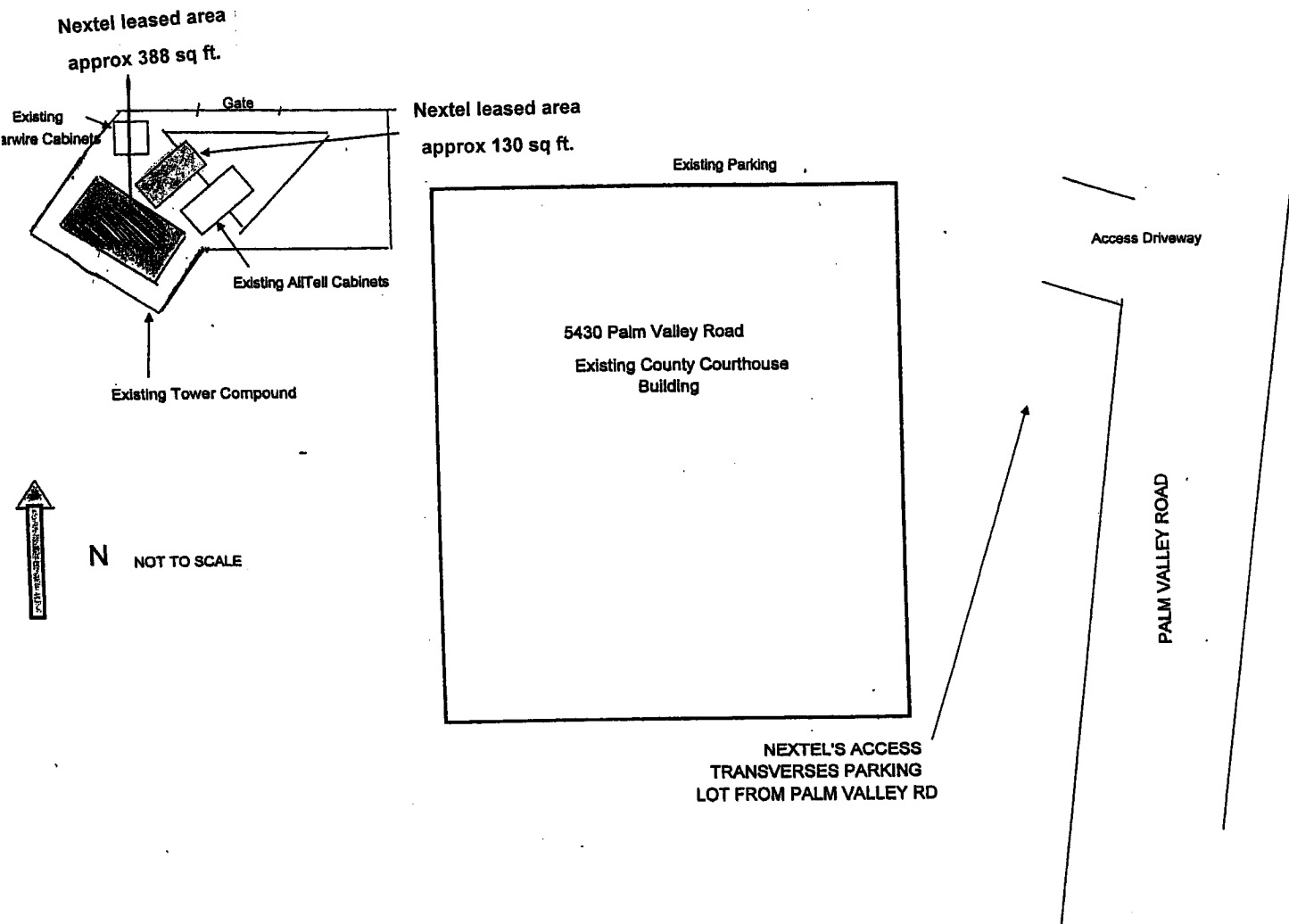


Exhibit "B" to the Resolution

Market: Jacksonville
 Site Number: FL-7041A
 Site Name: Ponte Vedra

**TOWER ATTACHMENT
 COMMUNICATIONS SITE AGREEMENT**

THIS TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT ("Agreement" or "Lease") is entered into this 21 day of October 1998, by and between St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, with an address of 4020 Lewis Speedway St. Augustine, Florida 32095 ("Owner") and Nextel South Corp., a Georgia Corporation d/b/a Nextel Communications, with an address of 851 Trafalgar Court, Suite 300E, Maitland, FL 32751 ("Lessee").

1. **Grant.** Subject to the following terms and conditions, Owner hereby grants Lessee the nonexclusive right to install, maintain, operate and remove wireless communications equipment and appurtenances on Owner's tower (the "Tower") located on the property described in Exhibit "A" (the "Premises"), and leases to Lessee a portion of the Premises (the "Building Site") for construction and occupancy of an equipment shelter or building to house Lessee's equipment on the Premises as more particularly described in Exhibit "A". Lessee may use only levels 190 feet to 220 feet of the Tower and its horizontally contiguous air space as depicted on Exhibit D for its antennas and receivers. Owner shall continue to have the right to occupy the Premises and the Tower and to grant others rights to occupy or utilize the Premises and the Tower at Owner's sole discretion subject to the provisions of paragraph 8. Owner also grants to Lessee a non-exclusive easement during the term of this Lease for ingress, egress and regress and for the installation and transmission of utilities on property described on attached Exhibit "B" ("Easement"). Lessee may install equipment, personal property, improvements, alterations or fixtures as listed on Exhibit "C" (the "Equipment"), or as Owner may otherwise approve, such approval not to be unreasonably withheld, conditioned or denied. Any personal property owned by Lessee, whether or not fixed or attached to the Building Site or Tower, shall remain the property of Lessee prior to termination of this Agreement without regard to whether it appears on Exhibit "C". Lessee has the right to remove all of its equipment at its sole expense on or before the expiration or earlier termination of the Agreement, provided the Lessee repairs any damage to the Premises caused by such removal.

2. **Use.** Lessee shall use the Equipment and the Building Site for the purpose of constructing, installing, maintaining, improving and operating, at Lessee's expense, a communications facility, including antennae, buildings and incidental uses. Lessee shall be solely responsible for securing any and all building permits and approvals, zoning changes or approvals, variances, use permits, and other governmental permits from applicable governmental authorities, including any Federal Aviation Administration approval (collectively "Permits") prior to any construction on the Premises. Owner agrees to reasonably cooperate with Lessee in obtaining the Permits, and copies of the Permits shall be provided to Owner upon request. Lessee shall promptly

Market: Jacksonville
 Site Number: FL-7041A
 Site Name: Ponte Vedra

pay all costs and expenses and shall not cause or permit any lien to be created against the Tower or the Premises. In the event a lien is filed against the Tower or Premises due to Lessee's failure to pay costs and expenses, Lessee shall within thirty (30) days of receipt of notice of said lien cause the lien to be removed.

3. Term. The term of this Agreement shall be five (5) years, commencing October 16th, 1998 (the "Commencement Date") and terminating at midnight on October 15th, 2003 ("Initial Term").

4. Renewal Term(s). Lessee shall have the right to extend this Agreement for four (4) additional terms of five (5) years each ("Renewal Term(s)") on the same terms and conditions as set forth in this Agreement except that the Rent shall be as specified in Paragraph 5 below. This Agreement shall automatically be renewed for each successive Renewal Term unless Lessee notifies Owner of Lessee's intention not to renew the Agreement at least thirty (30) days prior to expiration of the then current term.

5. Rent.

(a) Initial Term. Beginning on the Commencement Date, Lessee shall pay to Owner as rental the sum of three thousand, five hundred dollars (\$3,500.00) plus applicable sales tax for a total amount of three thousand, seven hundred and ten dollars (\$3,710.00) per month ("Rent"). Rent payments shall be made monthly in advance to the Owner's notice address as specified below and shall be prorated for any partial month at the commencement or termination of this Lease, based on the number of days in that month.

(b) Renewal Term. In the event that Lessee elects to renew this Lease as provided in paragraph 4, Rent shall increase by an amount equal to **fifteen percent (15%)** over the Rent to be paid by Lessee during the immediately preceding Term or Renewal Term. Lessee shall pay Owner Rent during each Renewal Term ("RT") according to the following schedule plus applicable sales tax:

First RT	\$4,025.00 per month	Third RT	\$5,323.06 per month
Second RT	\$4,628.75 per month	Fourth RT	\$6,121.52 per month

6. Tower Maintenance. Owner represents and warrants that its operation of the Tower, exclusive of Lessee's Equipment, and exclusive of other Tower tenants, but including the lighting system, meets and will be maintained in accordance with all applicable laws, rules and regulations, including, without limitation, rules and regulations of the Federal Communications Commission, Federal Aviation Administration and all applicable local codes and regulations. Owner shall maintain its tower lighting system and Tower in good operating condition. The costs of maintaining the Tower shall be borne by Owner with the exception of Lessee's antennae and Equipment, and except for damage to the Tower caused by Lessee, or Lessee's tenants, employees, contractors or

Market: Jacksonville
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subcontractors. Should Owner fail to timely make repairs required by this Agreement, Lessee may, at Lessee's option, make such repairs and Owner shall promptly reimburse Lessee for its costs and expenses incurred in such repair.

In the event Owner fails to maintain the tower lighting systems or Tower as provided herein, Lessee shall have the right to withhold Rent payments to Owner if Owner fails to make said repairs or to provide maintenance after Lessee has given Owner fifteen (15) days notice of the need to provide maintenance and repairs. Lessee shall have the right to apply such Rent withheld hereunder to make the necessary repairs and provide the necessary maintenance and Lessee shall not thereafter be responsible to Owner for the Rent withheld and used for such maintenance and repairs. Lessee's activities and operations and Lessee's Equipment shall not unreasonably interfere with Owner's maintenance and repair of the Tower and its lighting system and Owner's maintenance and repair of the tower and its lighting system shall not unreasonably interfere with Lessee's signal.

7. Conditions Precedent. Lessee's obligations to perform under this Agreement shall be subject to and conditioned upon:

(a) Lessee's securing appropriate approvals for Lessee's intended use of its Equipment on the Premises from the Federal Communications Commission, the Federal Aviation Administration, and any other federal, state or local regulatory agency having jurisdiction over Lessee's proposed use of the Equipment;

(b) Lessee's obtaining, at its option, a title report or commitment for a leasehold title policy from a title insurance company of Lessee's choice which must show no defects or restrictions of title or any liens or encumbrances which may adversely affect Lessee's use of the Premises or Lessee's ability to obtain financing, provided Lessee shall order such a policy within five (5) business days of the date of this Agreement. If such commitment or report is not ordered in that period or is not obtained within thirty (30) days of the date of this Agreement, this item shall not act as a condition precedent to this contract;

(c) Lessee's obtaining, at its option, a survey, soil borings and analysis tests which must show no defects which, in the reasonable opinion of Lessee, may adversely affect Lessee's use of the Premises, provided Lessee shall order such tests within five (5) business days of the date of this Agreement. If such survey, borings and tests are not ordered in that period or are not obtained within thirty (30) days of the date of this Agreement, this item shall not act as a condition precedent to this contract;

(d) Lessee's approval of the condition of the Premises, which may be subject to, at Lessee's option, an environmental audit of the Premises performed by an environmental consulting firm of Lessee's choice;

Market: Jacksonville
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(e) Lessee's determination that the Tower is structurally appropriate for Lessee's needs.

In the event of a failure of any of the above referenced conditions precedent within sixty (60) days of the date of this Agreement, Lessee may terminate this Agreement through written notice to Owner. If Lessee fails to provide such notice within sixty (60) days of the date of this Agreement, each of the above conditions precedent shall be deemed satisfied and no Rent shall be abated. In the event of a failure of a condition precedent set forth above, Owner shall refund any fees previously paid to Owner by Lessee under this Agreement upon termination.

8. Interference. Lessee agrees to install Equipment only of types, power and generating frequencies which will not cause interference to transmissions or signals from or to Owner and other current users of the Tower and Lessee will not modify such Equipment, power or frequencies in a manner that will cause unreasonable interference to now current and later current users of the Tower. Additionally, Lessee will not substantially modify the power, frequencies or location of its Equipment without the prior consent of the Owner, which consent shall not be unreasonably withheld. Lessee confirms that the equipment, power and generating frequencies of the current users of the Tower, and the currently proposed equipment, power, frequencies and locations on the Tower to be used by Powertel, or ALLTEL and the Owner will not cause interference to transmission or signals to or from Lessee's Tower Equipment. At Owner's request, Lessee shall provide a detailed interference analysis showing potential conflicts between Lessee's power and frequencies and those of the Owner or other users of the Tower. In the event Lessee's Equipment causes interference in violation of this Agreement, Lessee will take all steps necessary to correct and eliminate the interference. If the interference cannot be eliminated within 48 hours after receipt of written notice from Owner to Lessee ("Notice Date"), Lessee shall temporarily disconnect the electric power and shut down the offending Equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference) and if such interference is not corrected within 30 days after receipt of the written notice, Lessee agrees to promptly remove the Equipment causing such interference from the Tower and the Premises at Owner's request. After the Equipment has been installed, Owner shall place similar covenants upon frequency interference on others thereafter newly contracting with Owner to use Owner's Tower ("Third Parties") pertaining to new equipment installed by such Third Parties on the Tower after Lessee's installation of the Equipment. In the event any Third Parties' interference to Lessee's Equipment cannot be eliminated or rectified to Lessee's reasonable satisfaction within 48 hours after receipt of written notice from Lessee to Owner ("Notice Date"), Owner shall cause such Third Parties to temporarily disconnect the electric power and shut down the Third Parties' offending Equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference) and if such interference is not corrected within 30 days after receipt of the written notice, Owner shall at the request of Lessee require the Third Party causing the interference to promptly remove the equipment

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causing such interference from the Tower and the Premises. In the event the Third Party fails to remove such equipment from the Tower and the Premises within 45 days from Lessee's request to Owner, or to otherwise rectify the offending interference, Lessee shall have the option for a period of 30 days to terminate this Lease by providing notice of such termination to Owner.

9. Utilities and Access.

(a) Owner represents that utilities adequate for Lessee's intended use of the Premises are presently available. Further, from time to time, Lessee shall have the right to install utilities, to be separately metered at Lessee's expense, and to improve present utilities on the Premises, including but not limited to the installation of emergency power generators. Lessee shall have the right to permanently place utilities on, or to bring utilities across or under, the Building Site and the Easement in order to service the Equipment throughout the Initial Term or any Renewal Term of this Agreement. Owner shall, upon Lessee's request, execute a separate written easement or license in a form which may be filed of record evidencing this right. Lessee shall be responsible for all utility connection charges and all utility use charges, for electricity or any other utility used by Lessee.

(b) Lessee, its employees, agents, subcontractors, lenders and other reasonably necessary invitees shall have reasonable vehicular and pedestrian access to the Tower, the Building Site and the Equipment at all times, 24 hours each day, through the access drive presently existing on the Easement. Owner shall maintain the access drive in good condition throughout the Initial Term of this Agreement or any Renewal Term. Lessee may, at its option and own expense, construct a suitable private access drive to the Premises and the Equipment within the Easement. Owner agrees to maintain the current access so that no undue interference is caused to Lessee by other tenants, licensees, invitees or agents of the Owner.

10. Termination. Except as otherwise provided, this Agreement may be terminated, without any penalty or further liability, upon written notice as follows:

(a) By either party upon a default of any covenant or term of this Agreement by the other party which default is not cured within 30 days of receipt of written notice of default (without, however, limiting any other rights available to the parties pursuant to any other provisions of this Agreement); or

(b) By Lessee if the Premises or Tower are damaged by casualty so as to hinder, in Lessee's reasonable judgement, for more than 30 continuous days the effective use of the Equipment; or

(c) After six months prior written notice to the Lessor, if cancellation is necessitated (1) by changes to prevalent telecommunications technology which make use of the

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subject tower site substantially useless to the Lessee, or (2) by changes in applicable federal, state, or local laws, regulations, or rules which make use of the tower site substantially useless to the Lessee.

11. **Abatement of Rent.** If for any reason due to the fault of the Owner or third party users of the Tower or due to natural causes without fault of the Lessee, rent shall be abated for that portion of the tower hereby granted for use by Lessee beginning 48 hours after such denial of use begins running until such denial of use ends. The amount of such rent abatement shall be measured in 24 hour units, rounded to the lowest whole number of units.

12. **Tower Analysis.**

(a) Lessee shall be solely responsible to ensure that Lessee's installation of the Equipment shall not significantly effect the structural integrity of the Tower, and that no such damage results to the Tower due to installation of the Equipment. Owner agrees to furnish Lessee, promptly upon Lessee's request, with true and accurate copies of any tower analyses performed on the Tower within the two years preceding the request and Lessee's attachment of antennas or Equipment on the Tower. In the absence of such an analysis or if the most recent analyses are insufficient for Lessee's needs, Lessee may at its expense obtain a new analysis. If Owner reasonably believes that the structural integrity of the Tower will be effected, Owner may require Lessee to obtain a new analysis at Lessee's expense. Owner agrees to cooperate with Lessee in acquiring the new analysis of the Tower. If a new analysis of the Tower is requested by Lessee or required by Owner, Lessee shall be responsible for coordinating that new analysis by a licenses structural engineer or other party acceptable to Owner, and Lessee shall furnish a copy of the analysis to Owner. The costs of the new analysis shall be paid solely by Lessee. If Lessee requests, Owner shall obtain, within 30 days of Lessee's request, bids for any needed reinforcement or other work to make the Tower structurally sound. Should Lessee not terminate this Agreement under Section 6 Tower Maintenance above, Owner or with Owners consent the Lessee shall reinforce or otherwise make the Tower structurally sound for Lessee's use in accordance with the lowest responsible bid. Lessee shall promptly pay or reimburse Owner the costs and expenses of such work.

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(b) Owner shall notify Lessee in writing prior to attaching, or permitting any other person or entity to attach, any additional antennas, microwave dishes, or other similar equipment ("Additional Antennas") to the Tower. Should Additional Antennas be attached to the Tower, and Lessee reasonably believes that such attachment endangers the structural integrity of the Tower, upon Lessee's written request, Owner shall furnish, at Lessee's expense, a tower analysis performed on the Tower by a licensed structural engineer, or other party acceptable to Lessee, indicating that attachment of the Additional Antennas to the tower does not impair the structural integrity of the Tower and will not materially diminish the Tower's function or useful life. All such tower analyses shall be in compliance with current industry standards.

13. Taxes. Lessee shall pay any personal assessments or property taxes assessed on, or any portion of such assessments or taxes attributable to, Lessee's Equipment. Owner shall pay when due all real property taxes and all other fees and assessments attributable to the Premises. Lessee shall pay as additional Rent any increase in real property taxes levied against Premises which are directly attributable to Lessee's use of the Property and Owner agrees to furnish proof of such increase to Lessee.

14. Liability Insurance. During the Initial Term and all Renewal Terms of this Agreement, Owner and Lessee shall each maintain, at its own expense, insurance covering claims for public liability, personal injury, death and property damage under a policy of general liability insurance, with limits of not less than \$1,000,000.00 per person and \$2,000,000.00 per occurrence, and property damage insurance of not less than \$500,000.00. Such insurance shall insure against liabilities arising out of or in connection with Owner and Lessee's use or occupancy of the Premises and the Tower subject to the standard exceptions found in commercial general liability insurance policies.

15. Condemnation. If a condemning authority takes, or acquires by deed in lieu of condemnation, all of the Premises, or a portion sufficient to render the Premises or the Tower, in the reasonable opinion of Lessee, unsuitable for the use which Lessee was then making on the Premises or the Tower, Lessee may terminate this Agreement effective as of the date the title vests in the condemning authority. Owner and Lessee shall share in the condemnation proceeds as determined by agreement of the parties, or in the absence of such agreement, by the Court in which the condemnation proceedings are held.

16. Environmental Matters.

(a) Owner represents that, to the best of Owner's knowledge, no Hazardous Materials are presently located on the Premises or Easement. Lessee and Owner both covenant not to cause Hazardous Materials to be brought on the Premises or Easement, with the exception of cleaning solutions, solvents, or other substances typically used in the normal course of Owner or Lessee's business. The Owner will also not permit any third party to use, generate, move, or dispose

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of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. Any Hazardous Materials shall be properly contained and disposed of in a legal manner off site. As used in this Agreement, "Hazardous Materials" shall mean any and all polychlorinated biphenyls, petroleum products, asbestos, urea formaldehyde and other hazardous or toxic materials, wastes or substances, any pollutants, and/or contaminants, or any other similar substances or materials which are defined or identified as such in or regulated by any federal, state or local laws, rules or regulations (whether now existing or hereinafter enacted) pertaining to environmental regulations, contamination, cleanup or any judicial or administrative interpretation of such laws, rules or regulations or any substance that after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or directly through food chains will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities.

(b) Lessee shall comply with all laws, ordinances, rules, orders or regulations applicable to Hazardous Materials. Lessee shall not use the Premises or the Easement for treatment, storage, transportation to or from, use or disposal of Hazardous Materials (other than petroleum products necessary for the operation of an emergency electrical generator to serve the Equipment). Lessee shall be responsible for any expense incident to the abatement or compliance with the requirements of any federal, state or local statutory or regulatory requirements causes, directly or indirectly, by the activities of the Lessee or Lessee's agents, employees or contractors.

17. Hold Harmless.

(a) By Owner. To the extent allowed by Florida law, the Owner agrees to defend, indemnify and hold Lessee and its officers, agents and employees harmless from and against any and all, costs, charges, expenses, losses, claims, actions, suits, causes of action, judgments and charges of every kind and nature whatsoever, excluding attorneys fees, which in any manner arise out of any intentional misconduct by Owner pertaining to this Agreement or from any defect in the title to the Premises, or from the presence of any Hazardous Materials on the Premises caused by the Owner. The Owner will also be liable for its negligence as provided by Florida Law.

(b) By Lessee. Lessee agrees to defend, indemnify and hold Owner and its Tower users, their officers, agents and employees harmless from and against any and all costs, damages, expenses, losses, claims, actions, suits, causes of action, judgments, and charges of every kind and nature whatsoever, excluding attorneys fees, which may in any manner arise out of or relate to Lessee's use of the Equipment, Easement or Premises or the performance or non-performance of this Agreement by Lessee, Lessee's subcontractors, employees, agents, or assigns, including without limitation, those that may arise out of the use or furnishing or materials, and as to such claims, actions or causes of action arising from or resulting from any negligence or intentional misconduct by Lessee, its subcontractors, agents, servants, employees, or any or all of them.

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18. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, by certified mail, return receipt requested, or by overnight service having a record of receipt to the addresses indicated below:

If to Owner, to:

St. Johns County Administrative Center
4020 Lewis Speedway
St. Augustine, Florida 32095
Attn: County Administrator

Consumer's Certification of Exemption -- 65-06-012004-53C
Federal Tax I.D. (or Exemption Number).

If to Lessee, to:

Nextel South Corporation
851 Trafalger Court
Suite 300E
Maitland, Florida 32751
Attn: Property Manager

With a copy to: Nextel Communications, Inc.
1505 Farm Credit Drive
McLean, Virginia 22101
Attn: Legal Department Contracts Manager

19. Title. Owner warrants it has the full right, power and authority to execute this Agreement and that it has good and unencumbered title to the Premises free and clear of any liens, encumbrances or mortgages.

20. Assignment. Lessee may not assign or otherwise transfer all or any part of its interest in this Agreement or in the Premises without the prior written consent of Owner; provided, however, that to the extent allowed by Florida law, Lessee may assign its interest in its parent company, any subsidiary, affiliate of it or its parent company or to any successor in interest or entity acquiring 51% or more of its stock or assets subject to any financing entities interest, if any, in this Agreement. Owner may assign this Agreement upon written notice to Lessee subject to the assignee assuming all the Owner's obligations herein. Notwithstanding anything to the contrary contained in this Agreement, but to the extent allowed by Florida law, Lessee may assign mortgage, pledge, hypothecate, or otherwise transfer without consent its interest in this Agreement to any financing entity or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed

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money or in respect of guarantees thereof, (ii) has obligations evidenced by bonds, notes or similar interests or (iii) has obligations under or with respect to letters of credit, bankers, acceptances and similar facilities or in respect of guaranty's thereof.

21. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

22. Compliance with Laws. All installations and operations in connection with this Agreement by either party shall be conducted in accordance with all applicable rules and regulations of the Federal Communications Commission, Federal Aviation Administration, and any other applicable federal, state and local laws, codes and regulations. Lessee is solely responsible for the licensing, operation and maintenance of Lessee's Equipment, including, without limitation, compliance with any terms of its Federal Communications Commission license with respect to tower light observation and any notification to the Federal Aviation Administration in that regard. Lessee's Equipment, transmission lines, and any related devices, and the installation, maintenance and operation thereof, shall not damage the Tower or any property or properties adjoining, or interfere with the use of the Tower and the remainder of the Premises, by Owner or others. ~~and~~ Lessee shall defend, indemnify and hold harmless Owner from any such damage.

23. Holding Over. In the event Lessee remains on the Tower and in possession of the shelter or building on the Premises after the expiration of the Initial Term or a Renewal Term without executing a new Agreement, Lessee shall, unless objected to by Owner, occupy the Premises month-to-month, subject to all of the terms and conditions of this Agreement insofar as so consistent.

24. Estoppel. Each party agrees to furnish to the other, within 10 days after request, such truthful estoppel information as the other may reasonably request.

Market: Jacksonville
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25. Miscellaneous.

(a) This Agreement constitutes the entire agreement and understanding of Owner and Lessee, and supersedes all offers, negotiations and other agreements. Any amendments to this Agreement must be in writing and executed by Owner and Lessee.

(b) If either Owner or Lessee is represented by a real estate broker or agent in this transaction, that party shall be fully responsible for any fees or commission due such broker or agent and to the extent allowed by Florida Law shall hold the other party harmless from any such claims arising from execution of this Agreement.

(c) Lessee may record this Agreement or a Memorandum of Agreement executed by all parties.

(d) This Agreement shall be construed in accordance with the laws of the State of Florida.

(e) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(g) The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control the meaning or construction of any of the provisions hereof.

26. Notwithstanding any other provision of this agreement the Lessee shall be responsible for the cost and implementation of all site or tower changes or improvements necessary for its use of the tower site. Such changes shall be substantially in accordance with Exhibit D attached hereto and incorporated herein by reference. The Lessee who agrees to independently cooperate and coordinate tower site installation with other Lessees installing their facilities during the same period, and the County will be given the opportunity to require that a two (2) inches diameter conduit be installed at the County's cost to serve future Lessees.

27. Lien Waiver.

(a) Owner waives any lien rights it may have concerning Lessee's equipment which are deemed Lessee's personal property and not fixtures and Lessee has the right to remove same at any time without Owner's consent.

(b) Owner acknowledges that Lessee has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of Lessee's equipment ("Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities.) In connection therewith, Owner (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral as fixtures

Market: Jacksonville
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or otherwise, and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment or distress for any Rent due or to become due and that such Collateral may be removed at anytime without recourse to legal proceedings.

28. Notwithstanding any other provision of this Agreement, its terms shall be subject and subordinate to terms of the Lessor's original or properly amended bid documents for the subject Premises and the Lessor's prior agreements with Powertel, Inc.

Market: Jacksonville
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IN WITNESS WHEREOF, Owner and Lessee have executed this Tower Attachment Communications Site Agreement effective as of the day and year first above written.

OWNER: St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners

Attest: Cheryl Strickland, Clerk

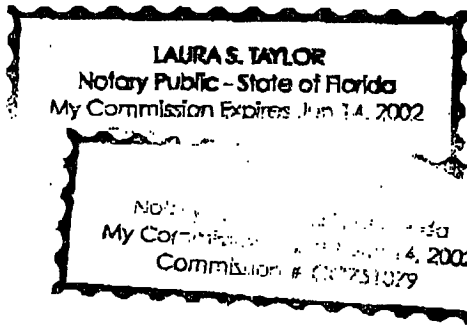
By: *Demora Y. Newcome*
Deputy Clerk

By: *Ben Adams*
Name: Ben Adams
Title: County Administrator
Date: 10/20/98

State of Florida
County of St. Johns

The foregoing instrument was acknowledged before me this 20th day of Oct, 1998, by Ben Adams, as County Administrator of St. Johns County, a political subdivision of the State of Florida, on behalf of it Board of County Commissioners. He/she is personally known to me or has produced _____ as identification.

Laura S. Taylor Notary Public
Laura S. Taylor
(Name of Notary, typed or printed)
Commission Number: _____
Commission Expires: _____



Market: Jacksonville
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Site Name: Ponte Vedra

LESSEE: **Nextel South Corp., a Georgia Corporation d/b/a Nextel Communications**

Attest: *Anthony A. Rapp*
Name: Anthony A. Rapp
Date: 10-16-98

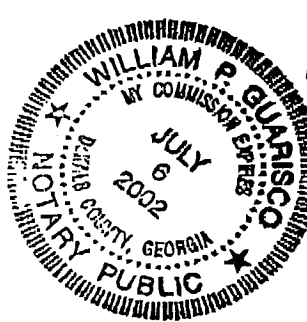
By: *John Cafaro*
Name: John Cafaro
Title: Vice President
Date: 10/16/98

Madelin Piccolomini
Name: Madelin Piccolomini
Date: 10/16/98

{Corporate Seal}

State of Georgia
County of Clay

The foregoing instrument was acknowledged before me this 16 day of October, 1998 by John Cafaro, as Vice President, who is personally known to me or who has produced _____ as identification.



William P. Guarisco Notary Public

(Name of Notary, typed or printed)

Commission Number: _____

Commission Expires: _____

Market: Jacksonville
Site Number: FL-7041A
Site Name: Ponte Vedra

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

to the AGREEMENT dated October 21, 1998, by and between St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, with an address of 4020 Lewis Speedway St. Augustine, Florida 32095 ("Owner") and Nextel South Corp., a Georgia Corporation d/b/a Nextel Communications, with an address of 851 Trafalgar Court, Suite 300E, Maitland, FL 32751 ("Lessee").

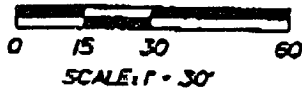
The property referred to as Premises is described as follows:

See attached Exhibit A1

The property referred to as Building Site is described as follows:

See attached Exhibit A2

Ponte Vedre
FL7041A
Exhibit A1



**LEGAL DESCRIPTION
(AS PROVIDED BY CLIENT)**

PARENT TRACT

A PART OF THE CHRISTINA HILL GRANT, SECTION 70, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF T.P.C. BOULEVARD, AS PLATTED BY WATER OAK, AS RECORDED IN MAP BOOK 14, PAGES 51, 52, 53 AND 54 OF THE PUBLIC RECORDS OF SAID COUNTY, WITH THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A, AS NOW ESTABLISHED AS A 200 FOOT RIGHT OF-WAY; THENCE SOUTH 00 DEGREES 40 MINUTES 10 SECONDS WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 863.72 FEET TO AN ANGLE POINT IN SAID RIGHT-OF-WAY LINE; THENCE SOUTH 07 DEGREES 09 MINUTES 54 SECONDS WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF A-1-A AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE OLD PALM VALLEY ROAD, COUNTY ROAD NO. 210, AS THE SAME AS NOW ESTABLISHED AS A 66 FOOT RIGHT-OF-WAY, A DISTANCE OF 1902.25 FEET TO THE POINT OF CURVE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 1493.46 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A CHORD BEARING OF SOUTH 12 DEGREES 27 MINUTES 24 SECONDS WEST AND A CHORD DISTANCE OF 275.46 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 17 DEGREES 44 MINUTES 53 SECONDS WEST, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF THE OLD PALM VALLEY ROAD, A DISTANCE OF 831.05 FEET; THENCE NORTH 72 DEGREES 15 MINUTES 07 SECONDS WEST, DEPARTING FROM SAID WESTERLY RIGHT-OF-WAY LINE OF OLD PALM VALLEY ROAD, 78.97 FEET; THENCE NORTH 17 DEGREES 31 MINUTES 38 SECONDS EAST, 72.09 FEET; THENCE NORTH 29 DEGREES 47 MINUTES 50 SECONDS WEST, 24.65 FEET; THENCE NORTH 72 DEGREES 25 MINUTES 12 SECONDS WEST, 91.05 FEET; THENCE SOUTH 17 DEGREES 34 MINUTES 48 SECONDS WEST, 8.79 FEET; THENCE SOUTH 72 DEGREES 24 MINUTES 45 SECONDS EAST, 5.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 17 DEGREES 35 MINUTES 15 SECONDS WEST, 15.00 FEET; THENCE NORTH 72 DEGREES 24 MINUTES 45 SECONDS WEST, 5.50 FEET; THENCE SOUTH 17 DEGREES 35 MINUTES 15 SECONDS WEST, 32.20 FEET; THENCE NORTH 72 DEGREES 24 MINUTES 45 SECONDS WEST, 23.01 FEET; THENCE NORTH 12 DEGREES 24 MINUTES 45 SECONDS WEST, 44.99 FEET; THENCE NORTH 17 DEGREES 35 MINUTES 15 SECONDS EAST, 8.24 FEET; THENCE SOUTH 72 DEGREES 24 MINUTES 45 SECONDS EAST, 51.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1791.96 SQUARE FEET MORE OR LESS.

Exhibit "C" to the Resolution

Market: North Florida
 Site No.: FL-7041A
 Site Name: Ponte Vedra

FIRST AMENDMENT TO TOWER ATTACHMENT COMMUNICATIONS SITE AGREEMENT

This First Amendment to Tower Attachment Communications Site Agreement, hereinafter referred to as "First Amendment", is made this 18th day of NOV 2002, by and between St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, with an address of 4020 Lewis Speedway St. Augustine, Florida 32095, (hereinafter referred to as "Owner") and Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications, whose address is 851 Trafalgar Court, Suite 300E, Maitland, Florida 32751 (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Owner and Lessee entered into a Tower Attachment Communications Site Agreement (hereinafter referred to as "Agreement") on October 21, 1998, for the placement of certain telecommunications facilities and other improvements on the Premises owned by Owner; and

WHEREAS, Lessee is seeking to amend the Agreement to allow for the installation of twelve (12) decibel products antennas that will be fed by twelve (12) 1 5/8" coaxial cables mounted between levels 190' and 220', with a centerline of 205', as depicted in Exhibits D1 and D2 of the Agreement;

WHEREAS, the parties now desire to modify and amend the Agreement;

NOW, THEREFORE, in consideration of the execution of this First Amendment, and the mutual promises, terms, covenants and conditions contained herein, the parties hereto do hereby agree as follows:

1. The foregoing recitations are true and correct and are hereby incorporated by reference.
2. Lessee has the right to install twelve (12) decibel products antennas that will be fed by twelve (12) 1 5/8" coaxial cables, and mounted to the Tower between levels 190' and 220', with a centerline of 205', as described in the Amended Exhibit "C" attached hereto, and as depicted in Exhibits D1 and D2 of the Agreement. Exhibit "C" of the Agreement is deleted in its entirety and hereby replaced with the attached Amended Exhibit "C."
3. Delete paragraphs 5(a) and 5(b) in their entirety and replace with the following:

5(a) Initial Term. Beginning on installation of equipment described in paragraph 2, Lessee shall pay to Owner as rental the sum of five thousand dollars (\$5,000.00) per month plus any applicable sales tax ("Rent") for the remainder of the Initial Term. Rent payments shall be made monthly in advance to the Owner's notice address as specified in Paragraph 18 of the Agreement, and shall be prorated for any partial month at the commencement or termination of the Agreement, based on the number of days in that month.

5(b) Renewal Term. In the event that Lessee elects to renew the Agreement as provided in paragraph 4, Rent shall increase by an amount equal to fifteen percent (15%) over the Rent to be paid by Lessee during the immediately preceding Term or Renewal Term. Lessee shall pay Owner Rent during each Renewal Term ("RT") according to the following schedule plus applicable sales tax:

First RT:	\$5,750.00 per month	Third RT:	\$7,604.38 per month
Second RT:	\$6,612.50 per month	Fourth RT:	\$8,745.03 per month

4. It is the intention of the parties hereto, that in the event of any conflict between the terms of the Agreement and this First Amendment, this First Amendment shall prevail and any conflicting language, terms or provisions in the Agreement shall be inoperative. Capitalized terms in this First Amendment shall have the same meaning as are given in the Agreement, unless otherwise defined in this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the Agreement on the date and year first above written.

Market: North Florida
Site No.: FL-7041A
Site Name: Ponte Vedra

OWNER: St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners,

Signed sealed and delivered in the presence of:

By: Ben W. Adams, Jr.
Print Name: BEN W. ADAMS, JR.
Title: COUNTY ADMINISTRATOR

Witness
Print Name: SANDRA SHEFFIELD

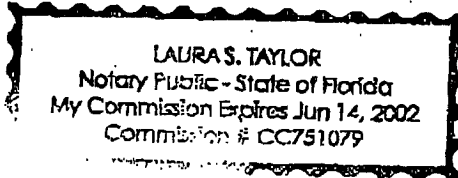
Sandra Sheffield
Witness

Print Name: Patricia A. Heiss Patricia A. Heiss

STATE OF FL
COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 18th day of March, 2002, by Ben W. Adams, Jr., as County Administrator St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

WITNESS my hand and official seal.
Laura S. Taylor
Notary Public



Print Name
My commission expires: _____

LESSEE: Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications

Signed sealed and delivered in the presence of:

By: Richard A. Konkey
Print Name: Richard A. Konkey
Title: Area Vice President

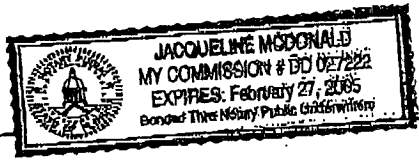
Witness
Print Name: Margaret Skeca

Nichole Davis
Witness
Print Name: Nichole Davis

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 12 day of MARCH, 2002, by Richard A. Konkey, as Area Vice President of Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

WITNESS my hand and official seal.
Jacqueline McDonald
Notary Public



Print Name
My commission expires: February 27, 2005

Market: North Florida
Site No.: FL-7041A
Site Name: Ponte Vedra

AMENDED EXHIBIT "C"

LESSEE'S PERSONAL PROPERTY and EQUIPMENT

To the First Amendment to Tower Attachment Communications Site Agreement, dated _____, 2002, by and between **St. Johns County, a political subdivision of the State of Florida, through its Board of County Commissioners ("Owner")** and **Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications ("Lessee")**.

Schedule of Equipment:

1. Twelve (12) Decibel Products Antennas that will be fed by twelve (12) 1 5/8" coaxial cables, and mounted to the Tower between levels 190' and 220', with a centerline of 205';
2. Three (3) Celwave Tower Top Amplifiers fed by one (1) 1/2" coaxial cable;
3. One (1) Andrew ten foot by twenty foot (10' x 20') prefabricated equipment shelter; and
4. Miscellaneous conduit from shelter to commercial telephone and power connection points.