


Site Name: SMOKEY ROAD

*Prepared By and Return To:*  
Thomas J. Buchanan  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz  
420 20th St. N., Suite 1400  
Birmingham, Alabama 35203

Cross Reference to Memorandum of Lease  
Recorded in Book, \_\_\_\_\_ Page \_\_\_\_\_  
in the Probate Office of Shelby County, Alabama.

  
20140507000137170 1/7 \$32.00  
Shelby Cnty Judge of Probate, AL  
05/07/2014 11:00:43 AM FILED/CERT

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(Recorder's Use Above this Line)

STATE OF ALABAMA )

COUNTY OF SHELBY )

**SUBORDINATION, NONDISTURBANCE AND**  
**ATTORNMENMENT AGREEMENT**

**THIS SUBORDINATION, NONDISTURBANCE, AND ATTORNMENMENT AGREEMENT** (the "Agreement") is made and entered into as of the 30 day of April, 2014, by and among First South Farm Credit, ACA ("Lender"), Richard S. Harless (a/k/a Steve Harless) and wife, Hattie B. Harless (a/k/a Hattie Harless) (the "Borrower" and "Lessor") and Celco Partnership, a Delaware general partnership, d/b/a Verizon Wireless (the "Lessee").

**WITNESSETH**

**WHEREAS**, Lessor is the owner of a certain tract of real property located in Shelby County, Alabama, a portion of which is more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property");

**WHEREAS**, Lender holds a certain Real Estate Mortgage encumbering the Property dated October 26, 2011, recorded as instrument number 20111027000322360 in the Probate Office of Shelby County, Alabama (the "Encumbrance");

**WHEREAS**, Lessee has certain rights with respect to the Property pursuant to that certain Land Lease Agreement dated April 30 2014 by and between Lessor and Lessee, a Memorandum of which is recorded or is to be recorded in aforesaid records, as such Land Lease Agreement may be amended from time to time (collectively the "Lease"); and

**WHEREAS**, Lender, Lessor/Borrower, and Lessee desire to enter into this Agreement in order to set forth their agreement with respect to the Encumbrance and the Lease;

**NOW THEREFORE**, for and inconsideration of the mutual covenants and agreements herein contained, the sum of Ten Dollars and No/100's (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Lessor/Borrower, and Lessee hereby agree as follows:

1. **Subordination:** Lessee's interest in the Lease and all rights of Lessee thereunder shall be and hereby are declared to be subordinate to the lien of the Encumbrance, subject to the Lessee's right of quiet enjoyment under the terms of the Lease. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Encumbrance, except as specifically set forth herein.

2. **Nondisturbance:** Lender, regardless of any foreclosure or conveyance in lieu of foreclosure, agrees that the rights of the Lessee under the Lease shall remain in full force and effect and Lessee's possession of the Property thereunder shall remain undisturbed by Lender, its successors or assigns, or any purchaser at any foreclosure sale, during the term of the Lease and during any renewal or extension thereof, provided that Lessee shall have performed and shall continue to perform all of the covenants and conditions of the Lease to be performed by Lessee and shall not be in default thereunder, beyond any applicable cure periods provided in the Lease, or if no cure provisions are provided, following thirty (30) days notice from Lender to Lessee of any nonperformance or default and Lessee's failure to cure or to commence to cure such nonperformance or default in such thirty (30) day period. Lender will not join Lessee as a party defendant in any action or proceeding to foreclose on the Encumbrance unless such joinder is necessary to foreclose on the Encumbrance and then only such purpose and for the purpose of terminating the Lease.

3. **Attornment:** After receipt by Lessee of notice from Lender of completion of a foreclosure with respect to the Property or that the Lender has received a conveyance of the Property in lieu of foreclosure, Lessee will attorn and recognize Lender, its successors or assigns, or any purchaser at the foreclosure sale, as its substitute Lessor or Landlord under the Lease. Having so attorned, Lessee's possession shall not thereafter be disturbed by Lender or any such purchaser during the term of the Lease, or any renewal or extension thereof.

4. **Limitation:** The Agreement shall apply to any equipment owned by Lessee which is now or may hereafter be placed on the Property and Lessee is authorized to remove said equipment in accordance with the terms of the Lease.

5. **Specific Performance:** Each party hereto shall be entitled to specific performance of the covenants, agreements, and rights contained in the Agreement. It is the express intent of all of the parties hereto that all remedies provided at law or in equity,

including without limitation, the right to specific performance as herein provided, shall be cumulative.

6. **Binding Effect:** This Agreement shall be binding upon and endure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

7. **Notices:** All notices or demands which are required or permitted to be given or served hereunder shall be in writing, and shall be deemed to have been given or served (i) by hand delivery, on the date of hand delivery, (ii) one (1) business day after delivery to an overnight courier for next business day delivery, delivery charges prepaid, or (iii) by registered or certified United States Mail, postage prepaid and return receipt requested, three (3) days after deposited in the mail, addressed as follows:

If to Lender:	First South Farm Credit, ACA One Perimeter Park South, Suite 100N Birmingham, Alabama 35243
If to Lessor:	Richard S. Harless and Hattie B. Harless 2474 Smokey Road Alabaster, Alabama 35007
If to Lessee:	Cellco Partnership, a Delaware general partnership, d/b/a Verizon Wireless One Verizon Way, Mail Stop 4AW100 Basking Ridge, New Jersey 07920

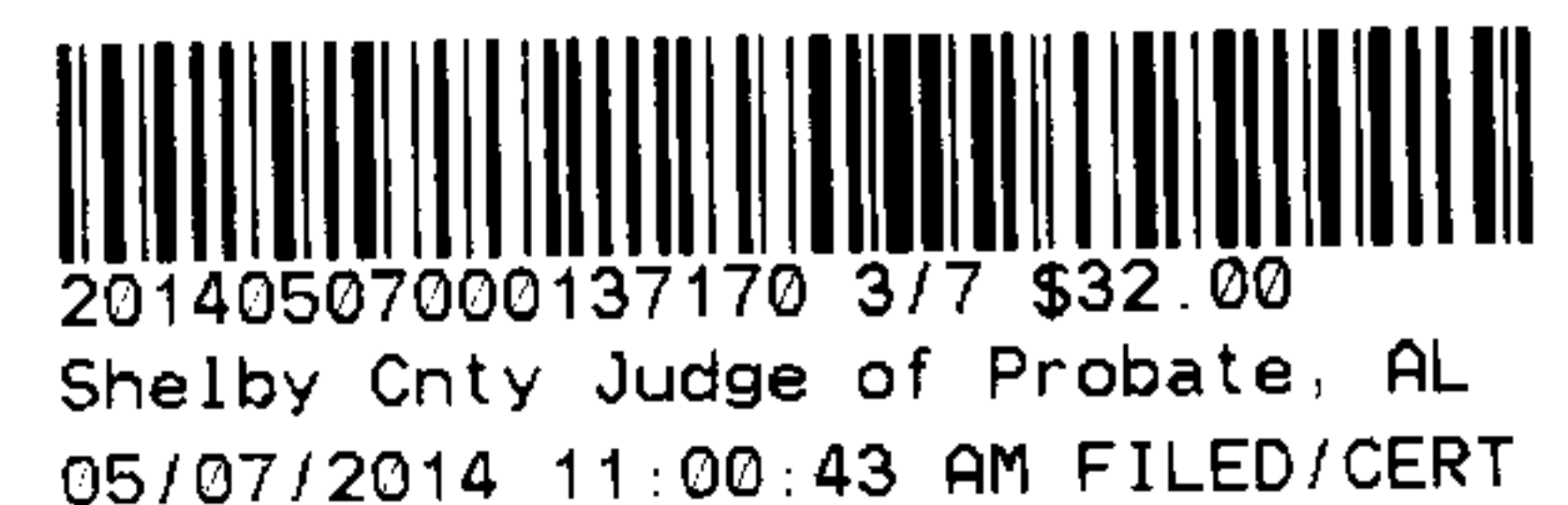
Any party hereto may change the address set forth above from time to time by serving written notice of the change to the other parties hereto at least thirty (30) days prior to the effective date of such change. Inability to deliver due to change of address for which no notice was given, or refusal to accept delivery, shall be deemed delivery hereunder.

8. **Waivers to be in Writing:** No modification, amendment, waiver or release of any provisions of this Agreement or of any right, obligation, claim or cause or action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

9. **Governing Law:** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Alabama.

10. **Captions:** The captions and heading used in this Agreement are for convenience only and do not in any way restrict, modify, or amplify the terms of this Agreement.

{Signature Page Follows}



IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered this Agreement as of the date first set forth above.

**LENDER:**

**First South Farm Credit, ACA**

Morgan Jennings Baldori  
Witness

By: [Signature]

Name: Debbie Crane

Its: Branch Manager

Date: 11/26/2013

**LESSOR/BORROWER:**

**Richard S. Harless (a/k/a Steve Harless)  
and wife, Hattie B. Harless (a/k/a Hattie  
Harless)**

[Signature]  
Witness

[Signature]  
Richard S. Harless (a/ka/ Steve Harless)

Date: 11-21-13

[Signature]  
Witness

[Signature]  
Hattie B. Harless (a/k/a Hattie Harless)

Date: 11-21-13

**LESSEE:**

**Cellco Partnership, a Delaware general  
partnership, d/b/a Verizon Wireless**

[Signature]  
Witness

By: [Signature]  
Name: Aparna Khurjekar  
Its: Area Vice President Network

Date: 4.30.14

Lender Acknowledgement:

STATE OF Alabama )

COUNTY OF Shelby )

I, the undersigned authority, a Notary Public in and for said county, in said State, hereby certify that, Jeffery, whose name as Branch Managers of First South Farm Credit, A/C is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, he in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said bank on the day the same bears date.

Given under my hand and seal this 26 day of November, 2013.

[NOTARIAL SEAL]

Morgan Jennings Baldwin  
Notary Public  
My Commission Expires: 9/10/17

Notary Public  
Alabama State at Large  
My Commission Expires  
9/10/17

Lessor Acknowledgement:

STATE OF ALABAMA )

COUNTY OF SHELBY )

I, the undersigned authority, a Notary Public in and for said county, in said State, hereby certify that, Richard S. Harless (a/ka/ Steve Harless), whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 25 day of Nov., 2013.

[NOTARIAL SEAL]

RG  
Notary Public  
My Commission Expires: 07/31/17



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Shelby Cnty Judge of Probate, AL  
05/07/2014 11:00:43 AM FILED/CERT

STATE OF ALABAMA      )

COUNTY OF SHELBY      )

I, the undersigned authority, a Notary Public in and for said county, in said State, hereby certify that, Hattie B. Harless (a/k/a Hattie Harless), whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 21<sup>st</sup> day of Nov., 2013.

[NOTARIAL SEAL]

[Signature]  
Notary Public  
My Commission Expires: 07/31/17

Lessee Acknowledgement:

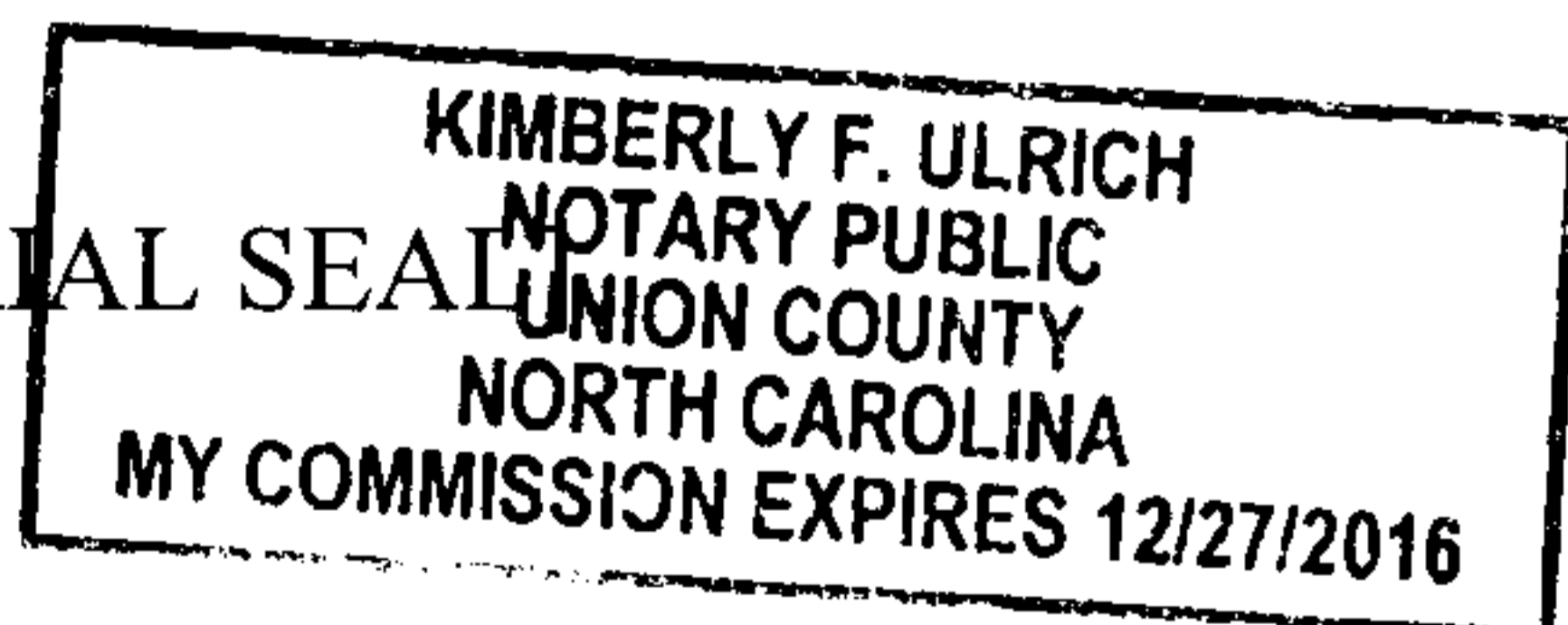
STATE OF NORTH CAROLINA      )

COUNTY OF MECKLENBURG      )

I, the undersigned authority, a Notary Public in and for said county, in said State, hereby certify that, Aparna Khurjekar, whose name as Area Vice President Network of Cellco Partnership d/b/a Verizon Wireless is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, she in her capacity as such officer and with full authority, executed the same voluntarily for and as the act of said entity on the day the same bears date.

Given under my hand and seal this 30 day of April, 2014.

[NOTARIAL SEAL]



[Signature: Kimberly F. Ulrich]  
Notary Public  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"


PARCEL I:

A parcel of land in Section 25,, Township 21 South, Range 3 West, being a part of the same land described in a deed to E. L. and Lillian Harless, recorded in Deed Book 209, Page 151, of the real property records of Shelby County, Alabama. Said parcel of land being more particularly described as follows:

Commencing at the Northeast corner of said Section 25: thence North 86 degrees 57 minutes 07 seconds West along the North line of said section a distance of 2460.73 feet to a 1" pipe, found on the West right of way of County Highway No. 12; thence South 06 degrees 35 minutes 43 seconds West, along said right of way a distance of 1071.64 feet to the point of beginning; thence South 06 degrees 35 minutes 43 seconds West, along said right of way a distance of 403.84 feet to a point; thence North 87 degrees 56 minutes 17 seconds West a distance of 2027.72 feet to a point in the center of Spring Creek; thence along the meanders of Spring Creek the following courses and distances: North 26 degrees 26 minutes 34 seconds East, a distance of 123.88 feet to a point; North 26 degrees 05 minutes 18 seconds East, a distance of 73.43 feet to a point; North 64 degrees 28 minutes 58 seconds East, a distance of 122.18 feet to a point; North 16 degrees 19 minutes 04 seconds East, a distance of 124.33 feet to a point; thence North 63 degrees 54 minutes 06 seconds West, a distance of 115.19 feet to a point; North 22 degrees 32 minutes 13 seconds West, a distance of 219.06 feet to a point; North 06 degrees 52 minutes 05 seconds West, a distance of 58.07 feet to a point; thence South 80 degrees 45 minutes 07seconds East a distance of 2061.29 feet to the point of beginning.

According to the survey of Sid Wheeler, dated February 16, 2006.

LESS AND EXCEPT the South 103.73 feet thereof.

  
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