

**EXHIBIT K
CONSTITUTIONAL CHALLENGE**

**Statement Relating to Request by T-Mobile South, LLC, for the Approval of a
Wireless Facility To Include a 108' Monopine at Fulton County Tax Parcel 12-1570-0261-
043-7 Located on lake Charles Drive before the City of Roswell City Council:**

As required by Federal courts and the Georgia Supreme Court, T-Mobile South LLC ("T-Mobile") respectfully states at this time that denial of the above-referenced application, in whole or in part, would prevent the operation of facilities intended by the FCC to be provided in the public interest. Because denial of the requested Wireless Facility, would have the effect of prohibiting personal wireless services, T-Mobile submits any such denial would violate the Federal Telecommunications Act of 1996, 47 U.S.C. § 332, and respectfully urges the City of Roswell City Council to fully approve the requested **Wireless Facility before the City of Roswell City Council.**

Additionally, practical difficulties resulting from the identification of other sites for the proposed facility would cause T-Mobile irreparable damage in terms of time and expense if the application is not fully approved. Granting the requested **Wireless Facility before the City of Roswell City Council**, will not cause substantial detriment to the public good or impair the purposes or intent of the **City of Roswell County Zoning Ordinance**, particularly **Article 21.2 Standards for Wireless Communications Facilities**. Indeed, granting the application in full will allow T-Mobile to provide a valuable public service to this area. A denial of the requested actions would constitute an arbitrary and unreasonable use of the zoning power, because it would deny a reasonable use of the property and would bear no substantial relation to the health, safety, morality, or general welfare of the public.

Denial of the application would result in no gain or benefit to the public, while inflicting serious injury and loss on T-Mobile. Denial of the application, in whole or in part, would discriminate in an arbitrary, capricious, and unreasonable manner between T-Mobile, the owners of the property, and owners/operators of similarly situated property and would constitute a taking without just compensation and without due process of law. Hence, such denial would be in violation of the Fifth and Fourteenth Amendments to the United States Constitution, as well as Article I, Section I, Paragraph I; Article I, Section I, Paragraph II; and Article I, Section III, Paragraph I (a) of the Constitution of Georgia of 1983.

Accordingly, T-Mobile respectfully requests the City of Roswell City Council to fully approve the requested **Wireless Facility to include a 108 foot monopine** pursuant to the above-referenced application.

