

Market: Northern California
Cell Site Number: CVL02828
Cell Site Name: Rahilly Park
Search Ring Name: Northeast Merced
Fixed Asset Number: 16155934

OPTION AND LAND LICENSE AGREEMENT

THIS OPTION AND LAND LICENSE AGREEMENT (“**Agreement**”), dated as of the latter of the signature dates below (the “**Effective Date**”), is entered into by the City of Merced, a California charter municipal corporation, having a mailing address of 678 W. 18th Street, Merced, CA 95340 (“**Licensor**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE, 3rd Floor, Atlanta, GA 30319 (“**Licensee**”).

BACKGROUND

Licensor owns or controls that certain plot, parcel or tract of land, as described on **Exhibit 1**, together with all rights and privileges arising in connection therewith, having a common street address of 3400 N. Parsons Ave, City of Merced, County of Merced, State of California 95340 [APN: 006-150-002-000] (collectively, the “**Property**”). Licensor desires to grant to Licensee the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. OPTION TO LICENSE.

(a) Licensor grants to Licensee an exclusive option (the “**Option**”) to License a certain portion of the Property containing approximately six hundred (600) square feet including the air space above such ground space, as described on attached **Exhibit 1**, (the “**Premises**”), for the placement of a Communication Facility in accordance with the terms of this Agreement.

(b) During the Option Term, and during the Term, Licensee and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the “**Tests**”), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Licensee’s sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the “**Government Approvals**”), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Licensee, are necessary in Licensee’s sole discretion to determine the physical condition of the Property, the environmental history of the Property, Licensor’s title to the Property and the feasibility or suitability of the Property for Licensee’s Permitted Use, all at Licensee’s expense. Licensee will not be liable to Licensor or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Licensee’s inspection. Licensee will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Licensee’s control excepted.

(c) In consideration of Licensor granting Licensee the Option, Licensee agrees to pay Licensor the sum of One Thousand and No/100 Dollars (\$1,000.00) within thirty (30) business days after the Effective Date. The Option will be for an initial term of one (1) year commencing on the Effective Date (the “**Initial Option Term**”) and may be renewed by Licensee for an additional one (1) year (the “**Renewal Option Term**”) upon written notification to Licensor and the payment of an additional One Thousand and No/100 Dollars (\$1,000.00) no later than five (5) days prior to the expiration date of the Initial Option Term. The Initial Option Term and any Renewal Option Term are collectively referred to as the “**Option Term**.”

(d) The Option may be sold, assigned or transferred at any time by Licensee without the written consent of Licensor. Upon notification to Licensor of such sale, assignment or transfer, Licensee shall immediately

be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Option Term, Licensee may exercise the Option by notifying Licensors in writing. If Licensee exercises the Option, then Licensors license the Premises to Licensee subject to the terms and conditions of this Agreement. If Licensee does not exercise the Option during the Initial Option Term or any extension thereof, then this Agreement will terminate, and the parties will have no further liability to each other.

(f) If during the Option Term, or during the Term if the Option is exercised, Licensors decide to subdivide, sell, or change the status of the zoning of the Premises, the Property or any of Licensors' contiguous, adjoining or surrounding property (the "**Surrounding Property**"), or in the event of a threatened foreclosure on any of the foregoing, Licensors shall immediately notify Licensee in writing. Licensors agree that during the Option Term, or during the Term if the Option is exercised, Licensors shall not initiate or consent to any change in the zoning of the Premises, the Property or the Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Licensee from using the Premises for the Permitted Use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

2. PERMITTED USE. Licensee may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure ("**Structure**"), associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (the "**Communication Facility**"), as well as the right to test, survey and review title on the Property; Licensee further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, (collectively, the "**Permitted Use**"). Licensors and Licensee agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Licensee's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Licensors' execution of this Agreement will signify Licensors' approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Licensors grants Licensee, its licensees and sublicensees, the right to use such portions of the Licensors' Surrounding Property as may reasonably be required during construction and installation of the Communication Facility. Licensee has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, install a generator and to make other improvements, alterations, upgrades or additions appropriate for Licensee's Permitted Use, including the right to construct a fence around the Premises or equipment, install warning signs to make individuals aware of risks, install protective barriers, install any other control measures reasonably required by Licensee's safety procedures or applicable law, and undertake any other appropriate means to secure the Premises or equipment at Licensee's expense. Licensee has the right to modify, supplement, replace, upgrade, expand the Communication Facility (including, for example, increasing the number of antennas or adding microwave dishes) or relocate the Communication Facility **within** the Premises at any time during the Term. Licensee will be allowed to make such alterations to the Property in order to ensure that the Communication Facility complies with all applicable federal, state or local laws, rules or regulations.

3. TERM.

(a) The initial license term will be five (5) years (the "**Initial Term**"), commencing on the effective date of written notification by Licensee to Licensors of Licensee's exercise of the Option (the "**Term Commencement Date**"). The Initial Term will terminate on the fifth (5th) anniversary of the Term Commencement Date.

(b) This Agreement will automatically renew for four (4) additional five (5) year term(s) (each additional five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions set forth herein unless Licensee notifies Licensors in writing of Licensee's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or the then-existing Extension Term.

(c) Unless (i) Licensor or Licensee notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party hereto by giving to the other party hereto written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rent during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term. If Licensee remains in possession of the Premises after the termination of this Agreement, then Licensee will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the "**Term**." Notwithstanding anything to the contrary contained in this Agreement, neither the licenses granted to Licensee in this Agreement nor this Agreement are revocable at will, and may only be terminated in accordance with the terms specified in this Agreement.

4. RENT.

(a) Commencing on the first day of the month following the date that Licensee commences construction (the "**Rent Commencement Date**"), Licensee will pay Licensor on or before the fifth (5th) day of each calendar month in advance, Three Thousand and No/100 Dollars (\$3,000.00) (the "**Rent**"), at the address set forth above. In any partial month occurring after the Rent Commencement Date, the Rent will be prorated. The initial Rent payment will be forwarded by Licensee to Licensor within ninety (90) days after the Rent Commencement Date.

(b) In year two (2) of the Initial Term, and each year thereafter, including throughout any Extension Terms exercised, the monthly Rent will increase by Three Percent (3%) over the Rent paid during the previous year.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Licensor within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Licensor, and shall not be payable by Licensee. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Licensor. The provisions of this subsection shall survive the termination or expiration of this Agreement.

(d) Within forty-five (45) business days after the Rent Commencement Date, Licensee shall pay to Licensor a "one-time" capital improvement fee of Thirty Thousand and No/100 Dollars (\$30,000.00).

5. APPROVALS.

(a) Licensor agrees that Licensee's ability to use the Premises is contingent upon the suitability of the Premises and Property for the Permitted Use and Licensee's ability to obtain and maintain all Government Approvals. Licensor authorizes Licensee to prepare, execute and file all required applications to obtain Government Approvals for the Permitted Use and agrees to reasonably assist Licensee with such applications and with obtaining and maintaining the Government Approvals.

(b) Licensee has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Licensee may also perform and obtain, at Licensee's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Licensee's use of the Premises will be compatible with Licensee's engineering specifications, system, design, operations or Government Approvals.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Licensee upon written notice to Licensor, if Licensee is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended

by Licensee; or if Licensee determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Licensee, upon written notice to Licensor, if Licensee determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Licensee upon written notice to Licensor for any reason or no reason, at any time prior to commencement of construction by Licensee; or

(e) by Licensee upon sixty (60) days' prior written notice to Licensor for any reason or no reason, so long as Licensee pays Licensor a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Licensee under any termination provision contained in any other section of this Agreement, including the following: Section 5 Approvals, Section 6(a) Termination, Section 6(b) Termination, Section 6(c) Termination, Section 6(d) Termination, Section 11(d) Environmental, Section 18 Condemnation or Section 19 Casualty.

7. **INSURANCE.** Licensee shall carry and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Licensee's operation and use of the Licensee's premises. The cost of such insurance shall be borne by the Licensee.

(a) **SCOPE AND LIMIT OF INSURANCE.** Coverage shall be as:

(i) **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits of \$2,000,000 per occurrence and \$4,000,000 general aggregate.

(ii) **Workers' Compensation insurance** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of \$1,000,000 per accident for bodily injury or disease and policy limit. (This applies to lessees with employees).

(iii) **Property insurance** against all risks of loss to any Licensee improvements or betterments, at full replacement cost with no coinsurance penalty provision. Licensee self-insures this risk.

(b) **OTHER INSURANCE PROVISIONS.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

(i) **Additional Insured Status.** Licensor, its officers, officials and employees are to be included as additional insureds by endorsement on the CGL policy with respect to liability caused, in whole or in part, by work or operations performed by or on behalf of Licensee in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

(ii) **Primary Coverage.** For any claims related to this contract, the Licensee's insurance CGL coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 as respects the Licensor, its officers, officials and employees. Any insurance or self-insurance maintained by the Licensor, its officers, officials and employees shall be excess of Licensee's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies if required to meet the required limits.

(iii) **Umbrella or Excess Policy.** Licensee may use any combination of Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, primary and non-contributory, additional insured and defense requirements.

(iv) **Notice of Cancellation.** Licensee will provide at least thirty (30) days written notice to Licensor of cancellation of any required coverage that is not replaced.

(v) **Waiver of Subrogation.** To the extent permitted by law, Licensee hereby grants to Licensor a waiver of any right to subrogation which any insurer of said Licensee may acquire against the Licensor by virtue of the payment of any loss under such insurance. Licensee agrees to carry any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Licensor has received a waiver of subrogation endorsement from the insurer, except for Licensee's self-insured property coverage where Licensee shall include Licensor as joint loss payee in lieu of waiver of subrogation and such status as joint loss payee shall void the requirement for waiver of subrogation for Licensee's self-insured property coverage.

(vi) Self-Insured Retentions. Any and all SIRs shall be the sole responsibility of Licensee who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible.

(vii) Acceptability of Insurers. Insurance is to be placed with insurers eligible to conduct business in the state with a current A.M. Best's rating of no less than A-:VII.

(viii) Verification of Coverage. Licensee shall furnish the Licensor with certificates of insurance and amendatory endorsements of coverage required by this clause. However, failure to carry the required documents prior to the work beginning shall not waive the Licensee's obligation to provide them.

Special Risks or Circumstances. Licensor reserves the right, but not more frequent than once every five (5) years and upon at least sixty (60) days written notice to Licensee, to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances, of comparable buildings in the vicinity of the building are generally requiring Licensees leasing space comparable in size to the Licensed Premises and in such comparable buildings to maintain higher levels of coverage.

8. INTERFERENCE.

(a) Prior to or concurrent with the execution of this Agreement, Licensor has provided or will provide Licensee with a list of radio frequency user(s) and frequencies used on the Property as of the Effective Date. Licensee warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Property, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Licensor will not grant, after the Effective Date, a License, license or any other right to any third party, if the exercise of such grant may in any way adversely affect or interfere with the Communication Facility, the operations of Licensee or the rights of Licensee under this Agreement. Licensor will notify Licensee in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Licensor will not, nor will Licensor permit its employees, Licensees, licensees, invitees, agents or independent contractors to interfere in any way with the Communication Facility, the operations of Licensee or the rights of Licensee under this Agreement. Licensor will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Licensee. In the event any such interference does not cease within the aforementioned cure period, Licensor shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

9. INDEMNIFICATION.

(a) Licensee agrees to indemnify, defend and hold Licensor harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility or Licensee's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Licensor, its employees, invitees, agents or independent contractors.

(b) Licensor agrees to indemnify, defend and hold Licensee harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Licensor, its employees, invitees, agents or independent contractors, or Licensor's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Licensee, its employees, agents or independent contractors.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section 9 and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection

with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

10. WARRANTIES.

(a) Licensee and Licensors (to the extent not a natural person) each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power, and authority or capacity, as applicable, to enter into this Agreement and bind itself hereto through the party or individual set forth as signatory for the party below.

(b) Licensors represent, warrant and agree that: (i) Licensors solely own the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Licensee's Permitted Use and enjoyment of the Premises under this Agreement; (iii) then Licensors grant to Licensee sole, actual, quiet and peaceful use, enjoyment and possession of the Premises in accordance with the terms of this Agreement without hindrance or ejection by any persons lawfully claiming under Licensors; (iv) Licensors' execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Licensors; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, then Licensors will provide promptly to Licensee a mutually agreeable and commercially reasonable subordination, non-disturbance and attornment agreement executed by Licensors and the holder of such security interest.

11. ENVIRONMENTAL.

(a) Licensors represent and warrant, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Property, as of the Effective Date, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Licensors and Licensee agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) Licensors and Licensee agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("**Claims**"), to the extent arising from that party's breach of its obligations or representations under Section 11(a). Licensors agree to hold harmless and indemnify Licensee from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Licensors for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the Effective Date or from such contamination caused by the acts or omissions of Licensors during the Term. Licensee agrees to hold harmless and indemnify Licensors from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Licensee for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Licensee.

(c) The indemnification provisions contained in this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 11 will survive the expiration or termination of this Agreement.

(d) In the event Licensee becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Licensee's sole determination, renders the condition of the Premises or Property unsuitable for Licensee's use, or if Licensee believes that the leasing or continued leasing of the Premises would expose Licensee to undue risks of liability to a government agency or other third party, then Licensee will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Licensors .

12. ACCESS. At all times throughout the Term of this Agreement, Licensee and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access ("Access") to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. As may be described more fully in **Exhibit 1**, Licensors grants to Licensee an easement for such Access and Licensors agrees to provide to Licensee such codes, keys and other instruments necessary for such Access to Licensee. Upon Licensee's request, Licensors will execute a separate recordable easement evidencing this right. Licensors shall execute a letter granting Licensee Access to the Property substantially in the form attached as **Exhibit 12**; upon Licensee's request, Licensors shall execute additional letters during the Term. If Licensee elects to utilize an Unmanned Aircraft System ("UAS") in connection with its installation, construction, monitoring, site audits, inspections, maintenance, repair, modification, or alteration activities at a Property, Licensors hereby grants Licensee, or any UAS operator acting on Licensee's behalf, express permission to fly over the applicable Property and Premises, and consents to the use of audio and video navigation and recording in connection with the use of the UAS. Licensors acknowledges that in the event Licensee cannot obtain Access to the Premises, Licensee shall incur significant damage. If Licensors fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Licensee under this Agreement or at law or equity, Licensors shall pay Licensee, as liquidated damages and not as a penalty, \$500 per day in consideration of Licensee's damages until Licensors cures such default. Licensors and Licensee agree that Licensee's damages in the event of a denial of Access are difficult, if not impossible, to ascertain, and the liquidated damages set forth above are a reasonable approximation of such damages.

13. REMOVAL/RESTORATION. All portions of the Communication Facility brought onto the Property by Licensee will be and remain Licensee's personal property and, at Licensee's option, may be removed by Licensee at any time during or after the Term. Licensors covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Licensee will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Licensors that all improvements of every kind and nature constructed, erected or placed by Licensee on the Premises will be and remain the property of Licensee and may be removed by Licensee at any time during or after the Term. Licensee will repair any damage to the Property resulting from Licensee's removal activities. Any portions of the Communication Facility that Licensee does not remove within one hundred twenty (120) days after the later of the end of the Term and cessation of Licensee's operations at the Premises shall be deemed abandoned and owned by Licensors. Licensee will be responsible for the replacement of any trees, shrubs or other vegetation substantially damaged as a result of Licensee's removal activities.

14. MAINTENANCE/UTILITIES.

(a) Licensee will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Licensors will maintain and repair the Property and access thereto and all areas of the Premises where Licensee does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements. Licensors will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Licensee as a condition of this Agreement or any required permit.

(b) Licensee will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Licensee on the Premises. In the event Licensee cannot secure its own metered electrical supply, Licensee will have the right, at its own cost and expense,

to sub-meter from Licensor. When sub-metering is required under this Agreement, Licensor will read the meter and provide Licensee with an invoice and usage data on a monthly basis. Licensee shall reimburse Licensor for such utility usage at the same rate charged to Licensor by the utility service provider. Licensor further agrees to provide the usage data and invoice on forms provided by Licensee and to send such forms to such address and/or agent designated by Licensee. Licensee will remit payment within sixty (60) days of receipt of the usage data and required forms. Licensor shall maintain accurate and detailed records of all utility expenses, invoices and payments applicable to Licensee's reimbursement obligations hereunder. Within fifteen (15) days after a request from Licensee, Licensor shall provide copies of such utility billing records to the Licensee in the form of copies of invoices, contracts and cancelled checks. If the utility billing records reflect an overpayment by Licensee, Licensee shall have the right to deduct the amount of such overpayment from any monies due to Licensor from Licensee.

(c) As noted in Section 4(c) above, any utility fee recovery by Licensor is limited to a twelve (12) month period. If Licensee submeters electricity from Licensor, Licensor agrees to give Licensee at least twenty-four (24) hours advance notice of any planned interruptions of said electricity. Licensor acknowledges that Licensee provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Licensee's reasonable determination, Licensor agrees to allow Licensee the right to bring in a temporary source of power for the duration of the interruption. Licensor will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Licensor, of such services to be furnished or supplied by Licensor.

(d) Licensee will have the right to install utilities, at Licensee's expense, and to improve present utilities on the Property and the Premises. Licensor hereby grants to any service company providing utility or similar services, including electric power and telecommunications, to Licensee an easement over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such service companies may from time to time require in order to provide such services to the Premises. Upon Licensee's or service company's request, Licensor will execute a separate recordable easement evidencing this grant, at no cost to Licensee or the service company.

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Licensee and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Licensor of such failure to pay; or (ii) Licensee's failure to perform any other term or condition under this Agreement within forty-five (45) days after written notice from Licensor specifying the failure. No such failure, however, will be deemed to exist if Licensee has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Licensee. If Licensee remains in default beyond any applicable cure period, then Licensor will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Licensor and a breach of this Agreement: (i) Licensor's failure to provide Access to the Premises as required by Section 12 within twenty-four (24) hours after written notice of such failure; (ii) Licensor's failure to cure an interference problem as required by Section 8 within twenty-four (24) hours after written notice of such failure; or (iii) Licensor's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Licensee specifying the failure. No such failure, however, will be deemed to exist if Licensor has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Licensor. If Licensor remains in default beyond any applicable cure period, Licensee will have: (i) the right to cure Licensor's default and to deduct the costs of such cure from any monies due to Licensor from Licensee, and (ii) any and all other rights available to it under law and equity.

16. ASSIGNMENT/SUBLICENSE.

(a) Licensee will have the right to assign, sell or transfer ("**Transfer**") its interest under this Agreement, in whole or in part, without Licensor's consent, only to: (i) an Affiliate of Licensee, or (ii) any entity

that acquires all or substantially all of Licensee's assets in the market, as defined by the Federal Communications Commission, in which the Property is located. Upon notification to Licensor of such Transfer, the assignor will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such Transfer. Licensee will also have the right to sublicense the Premises, in whole or in part, without Licensor's consent, **only** to an Affiliate of Licensee. Licensee shall not otherwise have the right to Transfer this Agreement, or sublicense the Premises, without Licensor's prior written consent.

(b) Upon Licensor's approval of Licensee's request to sublicense any portion of Licensee's Premises to a third party (other than to an Affiliate of Licensee) (each such non-Affiliate third party, a "**Subsequent User**"), then Licensee shall include a condition in its sublicense or other use agreement with each Subsequent User, that the Subsequent User must enter into a separate license or other agreement with Licensor for separate ground space on the Property and/or Tower space. Licensor and Licensee confirm that the foregoing obligation shall not apply to any sublicense or other use agreement between Licensee and any Affiliate of Licensee. For the avoidance of doubt, Licensor shall be entitled to all rent or fees derived from Licensor's separate leasing or licensing of ground space and Tower space to a Subsequent User, and Licensee shall be entitled to all rent or fees derived from Licensee's sublicensing its space within its Premises. Licensor covenants and agrees that it shall make such additional ground and/or Tower space available to each Subsequent User to the extent that space is reasonably available and otherwise on terms and conditions reasonably comparable to those contained in this Agreement. Licensor and Licensee agree to cooperate with each other in good faith to effectively and efficiently carry out the provisions of this section regarding the potential for sublicensing of space to Subsequent Users. Any sublicense that is entered into by Licensee shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective parties hereto.

17. NOTICES. All notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties hereto as follows:

If to Licensee: New Cingular Wireless PCS, LLC
Attn: Tower Asset Group - Lease Administration
Re: Cell Site #: CVL02828
Cell Site Name: Rahilly Park (CA)
Fixed Asset #: 16155934
1025 Lenox Park Blvd NE
3rd Floor
Atlanta, Georgia 30319

With a copy to: New Cingular Wireless PCS, LLC
Attn.: Legal Dept – Network Operations
Re: Cell Site #: CVL02828
Cell Site Name: Rahilly Park (CA)
Fixed Asset #: 16155934
208 S. Akard Street
Dallas, TX 75202-4206

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Licensor: City of Merced
Parks and Recreation Dept.
678 W. 18th Street,
Merced, CA 95340

With a copy to: City of Merced
City Attorney's Office
678 W. 18th Street,
Merced, CA 95340

Either party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other party hereto as provided herein.

18. CONDEMNATION. In the event Licensors receive notification of any condemnation proceedings affecting the Property, Licensors will provide notice of the proceeding to Licensee within twenty-four (24) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Licensee's sole determination, to render the Premises unsuitable for Licensee, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Licensee will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Licensee will be entitled to reimbursement for any prepaid Rent on a *pro rata* basis.

19. CASUALTY. Licensors will provide notice to Licensee of any casualty or other harm affecting the Property within twenty-four (24) hours of the casualty or other harm. If any part of the Communication Facility or the Property is damaged by casualty or other harm as to render the Premises unsuitable, in Licensee's sole determination, then Licensee may terminate this Agreement by providing written notice to Licensors, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Licensee will be entitled to collect all insurance proceeds payable to Licensee on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis. Licensors agree to permit Licensee to place temporary transmission and reception facilities on the Property, but only until such time as Licensee is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Licensors or Licensee undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Licensors agree to permit Licensee to place temporary transmission and reception facilities on the Property until the reconstruction of the Premises and/or the Communication Facility is completed. If Licensors determine not to rebuild or restore the Property, Licensors will notify Licensee of such determination within thirty (30) days after the casualty or other harm. If Licensors do not so notify Licensee and Licensee decides not to terminate under this Section 19, then Licensors will promptly rebuild or restore any portion of the Property interfering with or required for Licensee's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm. Licensors agree that the Rent shall be abated until the Property and/or the Premises are rebuilt or restored, unless Licensee places temporary transmission and reception facilities on the Property.

20. WAIVER OF LICENSOR'S LIENS. Licensors waive any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Licensors consent to Licensee's right to remove all or any portion of the Communication Facility from time to time in Licensee's sole discretion and without Licensors' consent.

21. TAXES.

(a) Licensors shall be responsible for (i) all taxes and assessments levied upon the lands, improvements and other property of Licensors including any such taxes that may be calculated by a taxing authority using any method, including the income method, (ii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with this Agreement, and (iii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with a sale of the Property or assignment of Rent payments by Licensors. Licensee shall be responsible for (y) any taxes and assessments attributable to and levied upon Licensee's improvements on the Premises if and

as set forth in this Section 21 and (z) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with an assignment of this Agreement or sublicense by Licensee. Nothing herein shall require Licensee to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature, that is or may be imposed upon Licensor.

(b) In the event Licensor receives a notice of assessment with respect to which taxes or assessments are imposed on Licensee's improvements on the Premises, Licensor shall provide Licensee with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice of assessment. If Licensor does not provide such notice or notices to Licensee in a timely manner and Licensee's rights with respect to such taxes are prejudiced by the delay, Licensor shall reimburse Licensee for any increased costs directly resulting from the delay and Licensor shall be responsible for payment of the tax or assessment set forth in the notice, and Licensor shall not have the right to reimbursement of such amount from Licensee. If Licensor provides a notice of assessment to Licensee within such time period and requests reimbursement from Licensee as set forth below, then Licensee shall reimburse Licensor for the tax or assessments identified on the notice of assessment on Licensee's improvements, which has been paid by Licensor. If Licensor seeks reimbursement from Licensee, Licensor shall, no later than thirty (30) days after Licensor's payment of the taxes or assessments for the assessed tax year, provide Licensee with written notice including evidence that Licensor has timely paid same, and Licensor shall provide to Licensee any other documentation reasonably requested by Licensee to allow Licensee to evaluate the payment and to reimburse Licensor.

(c) For any tax amount for which Licensee is responsible under this Agreement, Licensee shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as permitted by law. This right shall include the ability to institute any legal, regulatory or informal action in the name of Licensor, Licensee, or both, with respect to the valuation of the Premises. Licensor shall cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents required therefor. The expense of any such proceedings shall be borne by Licensee and any refunds or rebates secured as a result of Licensee's action shall belong to Licensee, to the extent the amounts were originally paid by Licensee. In the event Licensee notifies Licensor by the due date for assessment of Licensee's intent to contest the assessment, Licensor shall not pay the assessment pending conclusion of the contest, unless required by applicable law.

(d) Licensor shall not split or cause the tax parcel on which the Premises are located to be split, bifurcated, separated or divided without the prior written consent of Licensee.

(e) Licensee shall have the right but not the obligation to pay any taxes due by Licensor hereunder if Licensor fails to timely do so, in addition to any other rights or remedies of Licensee. In the event that Licensee exercises its rights under this Section 21(e) due to such Licensor default, Licensee shall have the right to deduct such tax amounts paid from any monies due to Licensor from Licensee as provided in Section 15(b), provided that Licensee may exercise such right without having provided to Licensor notice and the opportunity to cure per Section 15(b).

(f) Any tax-related notices shall be sent to Licensee in the manner set forth in Section 17. Promptly after the Effective Date, Licensor shall provide the Licensee's address to the taxing authority for the authority's use in the event the authority needs to communicate with Licensee. In the event that Licensee's tax address changes by notice to Licensor, Licensor shall be required to provide Licensee's new tax address to the taxing authority or authorities.

(g) Notwithstanding anything to the contrary contained in this Section 21, Licensee shall have no obligation to reimburse any tax or assessment for which the Licensor is reimbursed or rebated by a third party.

22. SALE OF PROPERTY.

(a) Licensor may sell the Property or a portion thereof to a third party, provided: (i) the sale is made subject to the terms of this Agreement; and (ii) if the sale does not include the assignment of Licensor's full interest in this Agreement, the purchaser must agree to perform, without requiring compensation from Licensee or any sublicensee, any obligation of Licensor under this Agreement, including Licensor's obligation to cooperate with Licensee as provided hereunder.

(b) If Licensor, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or the Surrounding Property, to a purchaser other than Licensee, Licensor shall promptly notify Licensee in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Licensee's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Licensor or its successor shall send the documents listed below in this Section 22(b) to Licensee. Until Licensee receives all such documents, Licensee's failure to make payments under this Agreement shall not be an event of default and Licensee reserves the right to hold payments due under this Agreement.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9 & CA FTB Form 590
- vi. Completed and signed Licensee Payment Direction Form
- vii. Full contact information for new Licensor including phone number(s)

(c) Licensor agrees not to sell, license or use any areas of the Property or the Surrounding Property for the installation, operation or maintenance of other wireless communication facilities if such installation, operation or maintenance would interfere with Licensee's Permitted Use or communications equipment as determined by radio propagation tests performed by Licensee in its sole discretion. Licensor or Licensor's prospective purchaser shall reimburse Licensee for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Licensee, Licensor shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communication facility or equipment.

(d) The provisions of this Section 22 shall in no way limit or impair the obligations of Licensor under this Agreement, including interference and access obligations.

23. RIGHT OF FIRST REFUSAL. Intentionally deleted.

24. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Licensor and Licensee. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum of License.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum of License substantially in the form attached as **Exhibit 24(b)**. Either party may record this Memorandum of License at any time during the Option Term, or the Term, as the case may be in its absolute discretion. Thereafter during the Term, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of License.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Licensee and Licensor each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Compliance with Law.** Licensee agrees to comply with all federal, state and local laws, orders, rules and regulations ("**Laws**") applicable to Licensee's use of the Communication Facility on the Property. Licensor agrees to comply with all Laws relating to Licensor's ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate; and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to "Licensee" shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Licensee pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **Standard Payment Direction Form/W-9/FTB 590.** As a condition precedent to payment, Licensor agrees to provide Licensee with a properly completed (i) Standard Payment Direction Form of Licensee; and (ii) IRS Form W-9 and CA FTB Form 590, or their respective tax form equivalents, upon execution of this Agreement and at such other times as may be reasonably requested by Licensee, including any change in Licensor's name or address.

(l) **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Licensor and Licensee. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(m) **Attorneys' Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including reasonable attorneys' fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters. This provision will not be construed to entitle any party other than Licensor, Licensee and their respective Affiliates to recover their fees and expenses.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

(o) **No Additional Fees/Incidental Fees.** Unless otherwise specified in this Agreement, all rights and obligations set forth in the Agreement shall be provided by Licensor and/or Licensee, as the case may be, at no additional cost. No unilateral fees or additional costs or expenses are to be applied by either party to the other party, for any task or service including, but not limited to, review of plans, structural analyses, consents, provision of documents or other communications between the parties.

(p) **Further Acts.** Upon request, Licensor will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents, and assurances as Licensee may request from time to time in order to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all transactions and permitted use contemplated by this Agreement.

[SIGNATURES APPEAR ON THE NEXT TWO PAGES]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the Effective Date.

“LICENSOR”

CITY OF MERCED,
a California charter municipal
corporation

BY: _____

D. Scott McBride

City Manager

ATTEST:

D. SCOTT MCBRIDE, CITY CLERK

BY: _____

Assistant/Deputy City Clerk

APPROVED AS TO FORM:

CRAIG J. CORNWELL, CITY ATTORNEY

BY:

Craig Cornwell 7/30/2025
City Attorney Date

ACCOUNT DATA:

M. VENUS RODRIGUEZ, FINANCE OFFICER

BY: _____

Verified by Finance Officer

“LICENSEE”

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By:

Print Name: _____

Its: _____

Date: _____

EXHIBIT 1

DESCRIPTION OF PROPERTY AND PREMISES

Page 1 of 23

to the Land License Agreement dated _____, 2025 by and between City of Merced, a California charter municipal corporation, as Licensor, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Licensee.

The Property is legally described as follows:

Lease Area Description

All that certain lease area being a portion of Lot 145 as is shown on that certain Record Map filed for record at Book 2 of Maps at Page 66, Merced County Records, located in the City of Merced, County of Merced, State of California, and being more particularly described as follows:

Commencing at a iron pipe monument in box set at the centerline intersection of the "Y" intersection of Shamrock Place as is shown on that certain Map of Wainwright's Park Village No. 5 filed for record at Book 29 of Maps at Page 29, Official Records, from which a similar monument bears North 54°45'08" West 222.34 feet; thence from said point of commencement North 53°19'35" East 644.76 feet to the True Point of Beginning, thence from Point of Beginning North 30.00 feet; thence East 20.00 feet; thence South 30.00 feet; thence West 20.00 feet to the point of beginning.

Together with a non-exclusive easement for access and utility purposes twelve feet in width the centerline of which is described as follows: beginning at the a point on the East boundary of the above described lease area which bears North 14.93 feet from the Southeast corner thereof and running thence East 27.25 feet to a point hereafter defined as Point "A"; thence through a tangent curve to the left having a central radius of 15.00 feet and running through an arc distance of 17.63 feet; thence tangent to the last curve North 20°03'39" East 72.85 feet; thence North 02°42'51" East 73.64 feet; thence through a tangent curve to the right having a central radius of 15.00 feet and running through an arc distance of 23.23 feet; thence tangent to the last curve South 88°32'33" East 63.64 feet; thence through a tangent curve to the right having a central radius of 15.00 feet and running through an arc distance of 12.14 feet; thence tangent to the last curve South 42°10'30" East 29.94 feet; thence through a tangent curve to the left having a central radius of 22.50 feet and running through an arc distance of 18.93 feet; thence tangent to the last curve North 89°37'38" East 237.4 feet more or less to the public right of way more commonly known as North Parsons Avenue.

Also together with a non-exclusive easement for utility purposes six feet in width the centerline of which is described as follows: beginning at Point "A" as previously defined and running thence South 89°31'17" East 41.54 feet; thence South 48°49'23" East 12.95 feet; thence East 130.6 feet more or less to the existing transformer.

APN: 006-150-002-000

The Premises are described and/or depicted as follows:

[100% Drawings Dated April 1, 2025, Prepared by Norman Scheel Structural Engineer
Consisting of Twenty-Two (22) Pages, Appears on Following Pages]

Notes:

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY LICENSEE.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY'S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE.

1.

EXHIBIT 11

ENVIRONMENTAL DISCLOSURE

Licensor represents and warrants that the Property, as of the Effective Date, is free of hazardous substances except as follows:

1. None.

EXHIBIT 12
STANDARD ACCESS LETTER
[FOLLOWS ON NEXT PAGE]

{ This Letter Goes On Licensor 's Letterhead }

[Insert Date]

Building Staff / Security Staff
[Licensor , Lessee, Licensee]
[Street Address]
[City, State, Zip]

Re: Authorized Access granted to []

Dear Building and Security Staff,

Please be advised that we have signed a License with [] permitting [] to install, operate and maintain telecommunications equipment at the property. The terms of the License grant [] and its representatives, employees, agents and subcontractors ("representatives") 24 hour per day, 7 day per week access to the License d area.

To avoid impact on telephone service during the day, [] representatives may be seeking access to the property outside of normal business hours. [] representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to License d area. Thank you for your assistance.

Licensor Signature

EXHIBIT 24(b)
MEMORANDUM OF LICENSE
[FOLLOWS ON NEXT PAGE]

**Recording Requested By
& When Recorded Return To:**

New Cingular Wireless PCS, LLC
Attn: Tower Asset Group - Lease Administration
1025 Lenox Park Blvd NE, 3rd Floor
Atlanta, GA 30319

APN: 006-150-002-000

(Space Above This Line For Recorder's Use Only)

Cell Site No.: CVL02828
Search Ring Name: Northeast Merced
Cell Site Name: Rahilly Park (CA)
Fixed Asset No.: 16155934
State: California
County: **Merced**

**MEMORANDUM
OF
LICENSE**

This Memorandum of License is entered into on this ____ day of _____, 2025, by and between City of Merced, a California charter municipal corporation, having its principal office/residing at 678 W. 18th Street, Merced, CA 95340 (hereinafter called "**Licensor**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE, 3rd Floor, Atlanta, GA 30319 ("**Licensee**").

1. Licensor and Licensee entered into a certain Option and Land License Agreement ("**Agreement**") on the ____ day of _____, 2025 for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial License term will be five (5) years commencing on the effective date of written notification by Licensee to Licensor of Licensee's exercise of the Option, with four (4) successive automatic five (5) year options to renew.
3. The portion of the land being licensed to Licensee and associated easements are described in **Exhibit 1** annexed hereto.
4. This Memorandum of License is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of License and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of License as of the day and year first above written.

LICENSOR:

City of Merced,
a California charter municipal corporation

By: _____

Name: _____

Its: _____

Date: _____

By: _____

Name: _____

Its: _____

Date: _____

LICENSEE:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation

Its: Manager

By: _____

Name: _____

Its: _____

Date: _____

[ACKNOWLEDGMENTS APPEAR ON NEXT THREE PAGES]

LICENSOR ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____,
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

LICENSOR ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____,
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

LICENSEE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____,
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT 1 TO MEMORANDUM OF LICENSE
DESCRIPTION OF PROPERTY AND PREMISES

Page 1 of 2

to the Memorandum of License dated _____, 2025 by and between City of Merced, a California charter municipal corporation, as Licensor, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Licensee.

The Property is legally described as follows:

Lease Area Description

All that certain lease area being a portion of Lot 145 as is shown on that certain Record Map filed for record at Book 2 of Maps at Page 66, Merced County Records, located in the City of Merced, County of Merced, State of California, and being more particularly described as follows:

Commencing at a iron pipe monument in box set at the centerline intersection of the "Y" Intersection of Shamrock Place as is shown on that certain Map of Wainwright's Park Village No. 5 filed for record at Book 29 of Maps at Page 29, Official Records, from which a similar monument bears North 54°45'08" West 222.34 feet; thence from said point of commencement North 53°19'35" East 644.76 feet to the True Point of Beginning, thence from Point of Beginning North 30.00 feet; thence East 20.00 feet; thence South 30.00 feet; thence West 20.00 feet to the point of beginning.

Together with a non-exclusive easement for access and utility purposes twelve feet in width the centerline of which is described as follows: beginning at the a point on the East boundary of the above described lease area which bears North 14.93 feet from the Southeast corner thereof and running thence East 27.25 feet to a point hereafter defined as Point "A"; thence through a tangent curve to the left having a central radius of 15.00 feet and running through an arc distance of 17.63 feet; thence tangent to the last curve North 20°03'39" East 72.85 feet; thence North 02°42'51" East 73.64 feet; thence through a tangent curve to the right having a central radius of 15.00 feet and running through an arc distance of 23.23 feet; thence tangent to the last curve South 88°32'33" East 63.64 feet; thence through a tangent curve to the right having a central radius of 15.00 feet and running through an arc distance of 12.14 feet; thence tangent to the last curve South 42°10'30" East 29.94 feet; thence through a tangent curve to the left having a central radius of 22.50 feet and running through an arc distance of 18.93 feet; thence tangent to the last curve North 89°37'38" East 237.4 feet more or less to the public right of way more commonly known as North Parsons Avenue.

Also together with a non-exclusive easement for utility purposes six feet in width the centerline of which is described as follows: beginning at Point "A" as previously defined and running thence South 89°31'17" East 41.54 feet; thence South 48°49'23" East 12.95 feet; thence East 130.6 feet more or less to the existing transformer.

APN: 006-150-002-000

The Premises are described and/or depicted as follows:

[One (1) Page Depiction of the Premises Suitable for Recording in Merced County Appears on Following Page]