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Subject: AT&T Proposed Master Attachment Agreement for Small Cells in Elk Grove
Attachments: Installation on Public Structures Agreement v6.docx

Bob,

Thank you for meeting with us on Friday to discuss AT&T's small cell deployment in Elk Grove.

Attached is a soft copy of our proposed master attachment agreement.

I look forward to working with you.

-Matt

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**LICENSE AGREEMENT FOR WIRELESS INSTALLATIONS
ON PUBLIC STRUCTURES**

BETWEEN

**NEW CINGULAR WIRELESS PCS, LLC
D/B/A AT&T MOBILITY**

AND

[REDACTED]

EFFECTIVE DATE: [REDACTED]

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**LICENSE AGREEMENT FOR WIRELESS INSTALLATIONS
ON PUBLIC STRUCTURES**

This License Agreement For Wireless Installations on Public Structures (the “Agreement”) is made and entered into as of _____, 201_ (“Effective Date”) by and between _____ [name of City/Town/Village/County/etc.] (“Licensor”) and NEW CINGULAR WIRELESS PCS, LLC a Delaware limited liability company d/b/a AT&T Mobility (“Licensee”). Licensor and Licensee shall be referred to hereafter individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Licensee seeks to affix wireless communication antennas and related equipment to certain of Licensor’s Structures, as defined herein;

WHEREAS, Licensor wishes to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling Licensor to promote the management of the rights-of-way in the overall interests of the public health, safety and welfare;

WHEREAS, Licensor is willing to accommodate Licensee’s non-exclusive use of such Structures in accordance with all applicable law and the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in this Agreement, the Parties hereby agree as follows:

CERTAIN DEFINED TERMS

As used herein, the following capitalized terms have the meaning ascribed to them below.

“Applicable Code” means Section [small cell/wireless attachments] ___ of the Code of [name of City/Town/Village/County/etc.].

“Emergency” means a situation in which there is an imminent threat of injury to person or property, or loss of life.

“FCC” means the Federal Communications Commission;

“Make-Ready Work” means the work required on or in Licensor’s Structure to create space for Licensee’s Attachments, and/or replacing and/or reinforcing the existing Structure to accommodate Licensee’s Attachments including, but not limited to, rearrangement or transfer of existing Attachments and the facilities of other entities, Structure relocation and replacement.

“Person” or “Persons” means any person or entity;

“Structure(s)” means pole(s) supporting one or more streetlights, traffic signals, flags, banners and/or signage; street furniture; billboard(s); trash receptacle(s); bus stop(s); and any other similar structure(s) capable of accommodating a Wireless Installation. Structure does not include any Licensor pole used for the function of electricity distribution.

“Technical Grounds” means, in light of prevailing industry engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law.

“Wireless Installation” means an antenna system equipment, including facilities that operate on FCC-approved frequencies in the bands authorized for commercial wireless communication services by the FCC pursuant to FCC licenses issued to Licensee, and all associated equipment, affixed by Licensee to a Structure owned or controlled by Licensor pursuant to a Permit (in accordance with Section 3.1 hereof) authorized by Licensor.

1. SCOPE OF AGREEMENT

1.1 Scope of Agreement. Nothing in this Agreement grants Licensee the right to make any Wireless Installation, or to install other facilities, including Wireless Facilities, that do not conform to this Agreement. To the extent not already governed by applicable law, Licensor hereby grants Licensee such rights-of-way and easements for the use and benefit of Licensee as necessary to exercise the right to attach to Licensor’s Structures, as provided herein. No use of Licensor’s Structures under this Agreement shall create or vest in Licensee any ownership or property rights in such Structures.

1.2 Interference with Wireless Installations. Licensor will not grant after the date of this Agreement a permit, license or any other right to any third party if, at the time such third party applies for access to a Structure, Licensor knows or has reason to know that such third party’s use may in any way adversely affect or interfere with the Licensee’s existing Wireless Installations, Licensee’s use and operation of its facilities, or Licensee’s ability to comply with the terms and conditions of this Agreement.

1.3 Installation of Poles. Notwithstanding any provision herein, Licensee has the right to install its own poles in municipal rights-of-way for the purpose of affixing its Wireless Installations, subject to reasonable permitting requirements and in accordance with applicable law.

2. GENERAL OBLIGATIONS

2.1 Technical Requirements and Specifications.

(a) At its own expense, Licensee must erect, install, repair and maintain its Wireless Installations in safe condition and good repair in accordance with:

(i) the requirements and specifications of the National Electrical Safety Code (“NESC”), the National Electrical Code (“NEC”) and any and all other applicable regulatory codes for safe practices when performing work on or near Structures (collectively, “Safety Codes”); and

(ii) any current or future rules or orders of the FCC, the State public utility commission, or any other federal, state or local authority having jurisdiction.

(iii) changes to the requirements, specifications, rules and orders in subsections (i) and (ii) shall not apply retroactively unless required by law.

(b) Licensor may, on Technical Grounds, deny all or part of an Application for Permit, or limit the number and/or technical characteristics (*e.g.*, weight or size) of any Wireless Installation on any Structure or require relocation, replacement or removal of Wireless Installations. In the event Licensor determines, based upon Technical Grounds, that inadequate space exists on its Structure(s) to accommodate any proposed Wireless Installation, Licensee may elect to have such Structure(s) replaced as part of Make-Ready Work, at Licensee’s sole expense, with Structure(s) with adequate space to accommodate the proposed Wireless Installation

2.2 No Liens Permitted. Licensee will not, directly or indirectly, create, incur, assume or suffer to exist any lien with respect to any Structure or other Licensor property or facility resulting from any work performed by Licensee or on its behalf pursuant to this Agreement or any act or claim against it or any of its contractors, agents, or customers and will, at its sole expense, promptly take any action as may be necessary to discharge any such lien within thirty (30) days of first being notified in writing of its existence.

2.3 Worker Qualifications; Responsibility for Agents and Contractors. Each party shall ensure that its workers and, to the extent that either may employ agents or contractors, their workers, are adequately trained and skilled to access Structures in accordance with all applicable industry and governmental standards and regulations. Licensor may deny access to its Structures to any such worker who is not so qualified, or does not act in a safe and professional manner when accessing any Structure. In such event, Licensee shall take such reasonable and necessary action so as to ensure that such worker does not continue to access Structures on Licensee’s behalf unless such worker is qualified to Licensor’s reasonable satisfaction. In no event, however, shall a party be liable or otherwise responsible for the competence or conduct of the other party’s workers or those of the other party’s agents or contractors.

2.4 Utilities. Licensee shall be solely responsible for arrangement and payment for electric service necessary in connection with Wireless Installations.

3. APPLICATION FOR PERMIT

3.1 Application for Permit. Before placing any new or additional Wireless Installation onto any Structure, Licensee shall apply for a permit from Licensor. Licensee shall apply for the permit using the Application for Permit (“Permit”) attached as Exhibit A hereto, which Licensor may revise or amend from time to time in its reasonable discretion upon 60 days’ written notice to Licensee. Unless applicable law provides otherwise as reflected in Exhibit B, Licensor will notify Licensee of the specific deficiencies in any incomplete Permit Application within ten (10) days of its submission and Licensor will approve or reject each Permit within forty-five (45) days of its submission. In the event of rejection of a Permit, Licensor shall provide a written explanation to Licensee of the basis for the rejection with the same forty-five (45) day period. A permit shall be deemed approved if not approved or denied (for reasons consistent with applicable law) within the time frames specified herein or in Exhibit B. Each Application for Permit may request attachments to up to forty (40) different Structures or as otherwise provided in Exhibit B. Licensor shall pay an Application Fee for each application at the time of submission in the amount set forth in Exhibit B except that no such fee shall be required for a resubmitted application where such application was originally rejected as incomplete.

3.2 Technical Review. Licensor will undertake all engineering and administrative activities necessary to approve or deny Licensee’s Permit Application. Such activities include, but are not limited to, assigning a Permit number, logging the Permit into the tracking system, determining any Make-Ready Work necessary in connection with the Permit, informing other attachers of Licensee’s intent to attach, approving the Permit, field work (inspecting the location, taking required measurements at the location, setting up joint meetings with other attachers if necessary, and inspecting the work.) Licensor shall recover the costs associated with this Technical Review through the Application Fee. At the time of approving the Permit, Licensor will advise Licensee of any Make-Ready Work that needs to be performed in connection with the Permit, including replacing the Structure as provided for in Section 2.1(b), and whether Licensor is willing to perform that Make-Ready Work. If Licensor indicates it is willing to perform the Make-Ready Work, Licensee shall have sixty (60) days from the receipt of the Make-Ready Cost Estimate described in Section 4.1(a) to accept the terms, unless applicable law provides a different deadline as reflected in Exhibit B. If Licensor does not indicate that it is willing to perform the Make-Ready Work, Licensee may perform the Make-Ready Work itself and shall have sixty (60) days from approval of the Permit to accept the terms, unless applicable law provides a different deadline as reflected in Exhibit B.

4. PREPARATION OF STRUCTURES FOR ATTACHMENT

4.1 Make-Ready Work and Costs. If Licensor performs the Make-Ready Work, the provisions of Section 4.1(a)-(c), 4.2 and 4.3 shall apply. If Licensee performs the Mark-Ready Work, the provisions of Section 4.1(b) and (c) shall apply, but the provisions of Section 4.1(a), 4.2 and 4.3 shall not apply.

(a) Licensor will provide Licensee with a written estimate (“Make-Ready Cost Estimate”) of the direct costs to prepare the Structure(s) for attachment by Licensee (“Make-Ready Costs”) within fourteen (14) days of Licensor authorizing the Permit in accordance with Section 3, unless applicable law provides a different deadline as reflected in Exhibit B. Licensor will not begin Make-Ready Work until it has received Licensee’s signed approval of the Make-Ready Cost Estimate and full payment thereof (“Approved Make-Ready Cost Estimate”).

(b) If a Person, other than Licensor, would have to rearrange or adjust any of its facilities in order to accommodate a new Wireless Installation, the party performing the Make-Ready Work shall coordinate such activity, at Licensee’s sole expense to coordinate such activity. Licensee shall be responsible for directly paying such other Person for its charges for the same.

(c) The Wireless Installation shall be conditioned on the completion of all Make-Ready Work needed to establish full compliance with NESC, and with Licensor Practices and engineering standards; provided, however, that Licensee shall not be responsible for any third-party or Licensor costs necessary to correct third party or Licensor attachments that are non-compliant at the time of Licensee’s Application. If Licensee is requested by another Person, in comparable circumstances, to relocate or adjust any Wireless Installation to accommodate that Person’s facilities, subject to Licensor’s written approval of such relocation, the Licensee shall reasonably cooperate with such request and charge no more than Licensor would be permitted to charge for the relocation of its facilities on the applicable Structure under section 4.1(a) above.

4.2 Completion of Make-Ready Work. Licensor will complete all requested make-ready work described in the Approved Make-Ready Cost Estimate (“Make-Ready Work”) within sixty (60) days after receiving the Approved Make-Ready Cost Estimate and payment thereof.

4.3 Make-Ready Cost Reconciliation. If the actual and reasonable costs incurred by Licensor in a Make-Ready effort exceed the pre-paid Make-Ready Cost Estimate, Licensee shall pay Licensor the shortfall amount of such costs within sixty (60) days of receipt of the invoice. If such Make-Ready Costs were less than the pre-paid Make-Ready Estimate, Licensor will refund the excess Make-Ready Payment to Licensee within sixty (60) days following completion of the make-ready work. No interest shall accrue on any excess Make-Ready Payment credit balance or be due on any shortfall.

4.4 Notification of Completion of Installation. Within twenty (20) business days of completing the installation of each Wireless Installation, Licensee shall notify Licensor of such completion.

5. OPERATION AND MAINTENANCE; RESERVATION OF RIGHTS

5.1 Reservation of Rights. As permitted by applicable law, Licensor reserves the right to operate and maintain its Structures and facilities, to discontinue such maintenance, and to remove its Structures and facilities, in the best manner required to fulfill its own service requirements, and its public, employee and worker safety obligations.

5.2. RF Emissions.

(a) Licensee will comply with all Federal Communications Commission (FCC) regulations regarding radio frequency (“RF”) emissions and exposure limitations. Licensee is allowed to install signage and other mitigation, such as a power cut-off switch on Structures, to allow workers and third parties to avoid excess exposure to RF emissions. Licensor’s authorized field personnel will contact Licensee’s designated point of contact not less than 24 hours in advance to inform Licensee of the need for a temporary power-shut-down. In the event of an unplanned outage or cut-off of power or an emergency, the power-down will be with such advance notice as practicable. Once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform Licensee as soon as possible that power has been restored. The parties acknowledge that they understand the vital nature of Licensee’s Wireless Installations and agree to limit the frequency of power-downs and restore power as promptly as much as reasonably possible.

(b) Licensor, Licensee and other attachers which emit RF on Licensor’s Structures are under an obligation to operate its own existing or future facilities to protect against RF interference to RF signals of Licensor, Licensee, and such other attachers, as applicable, as may emanate or arise. Licensor and Licensee and all others on Licensor’s Structures shall endeavor to correct any interference to other networks created by its RF emissions promptly and shall coordinate and cooperate with each other relating to the same.

5.3 FCC Antenna Registrations, Federal Aviation Administration (“FAA”) Compliance. Licensee is solely responsible for ensuring compliance with any and all FCC antenna registration, FAA, or similar requirements with respect to the location of the Licensee’s antennas or other facilities. Without limitation, Licensee acknowledges and agrees that Licensor’s Structures are not “antenna structures” under the FCC’s rules and that, accordingly, Licensor has no obligation of its own in this regard to register them with the FCC, the FAA, or other agency.

5.4 Equipment Modification and Replacements. Subsequent to the original installation of Licensee's equipment, Licensee may modify or replace the equipment so long as such modification or replacement does not increase the load on the applicable Structure beyond the loading, if any, that was established in the approved application, or involve placement of equipment outside the area designated in the approved application without obtaining prior written consent of Licensor.

5.5 Access. At all times throughout the Term of this Agreement, and at no additional charge to Licensee, 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, in and on any Structure used or to be used pursuant for an approved Permit so that Licensee may install, operate, maintain, repair, replace, remove, or modify its Wireless Installations. Licensor acknowledges that in the event Licensee cannot obtain Access, Licensee shall incur significant damage. If Licensor fails to provide the Access granted by this section, such failure shall be a default under this Agreement.

6. CHARGES, BILLING AND PAYMENT

6.1 Annual Rent For Wireless Installations. Licensee shall pay Licensor the rental fee ("Rent") per Wireless Installation and the ROW Fee per Wireless Installation located in the Licensor's right-of-way, as set forth in Exhibit B, for each year (or partial year) that this Agreement remains in effect. Said Rent is per Structure and includes all appurtenant equipment and facilities used in connection with Wireless Installations.

6.2 Timing of Payment and Calculation of Number of Wireless Installations.

(a) The Rent shall be payable annually in advance for each Wireless Installation, as recorded by Licensor or for which a Permit has been issued as of October 1 of the prior calendar year (the "Record Date").

(b) If Licensee's records show a different number of Wireless Installations for which a Rent payment is required, Licensee shall so notify Licensor within thirty (30) days of relevant invoice. Licensor will then, following receipt of Licensee's notification, either accept in writing Licensee's revised count/information or notify Licensee in writing that a dispute exists about such count, in which event the parties shall comply with the dispute resolutions provisions of the agreement.

6.2 Surety Bond. Licensor may, upon sixty (60) days' written notice, require Licensee to furnish a surety bond (the "Surety Bond") as provided for in Exhibit B, in order to guarantee Licensee's payment and performance of sums and liabilities that may become due to Licensor for all Rent and other amounts and liabilities required by or concerning this Agreement.

6.3 Unauthorized Wireless Installations.

(a) Upon discovery of a Wireless Installation that has not been approved by Licensor by Permit (an "Unauthorized Wireless Installation"), Licensor

may invoice, and Licensee shall pay to Licensor within ninety (90) days from receipt of the date of invoice, a sum equal to the lesser of (a) the number of years since the last jointly conducted audit and (b) five (5) times the then current Rent multiplied by the number of Wireless Installations, unless Licensee can produce documentation showing installation of the attachment occurred on a later date, in which case Licensee shall pay back rent from that point forward.

(b) Within sixty (60) days of notification of an Unauthorized Wireless Installation, Licensee shall apply for a Permit and Licensor shall approve or deny such Application for Permit in accordance with this Agreement.

(c) Unauthorized Wireless Installations shall not be considered a default of this Agreement unless there is established a pattern of Unauthorized Wireless Installations by Licensee.

6.4 Billing and Payment Generally.

(a) Except as otherwise provided herein, all bills and invoices and other requests for payment rendered under this Agreement shall be paid by Licensee within ninety (90) days from the receipt of invoice. Interest of one percent (1%) per month (or the highest amount permitted by law, whichever is less) of the total amount due and unpaid will apply to any unpaid amount after ninety (90) days from the receipt of invoice.

(b) Licensee shall notify Licensor within thirty (30) days of the date of invoice of any dispute, with sufficient particularity to identify the amounts in, and grounds for, dispute.

7. **AUDITS AND INSPECTIONS**

7.1 Audits.

(a) Licensee and Licensor shall cooperate in determining the total number of Wireless Installations. This determination shall be based on an on-going inventory of Permits that shall be maintained by Licensor. Licensor has the right to require a jointly conducted physical audit of Wireless Installations no more frequently than once every five (5) years, unless Licensee is responsible for a Default under this Agreement, in which case Licensor may audit no more frequently than once a year (until such default is cured). Licensor must provide ninety (90) days' written notice of any audit. The actual and reasonable cost of such audits will be shared equally by Licensor and Licensee.

(b) Licensee and Licensor may mutually agree that in lieu of such a jointly conducted physical audit, the number of Wireless Installations may be determined from existing maps and attachment records, in which case, each Party shall make all

relevant maps and records available to the other Party and the number of Wireless Installations shall be cooperatively determined.

7.2 Safety Inspections. Licensor may conduct, at its sole expense, inspections of Wireless Installations on Licensor's Structures and to conduct inspections in the vicinity of Wireless Installations. Licensor shall give Licensee sixty (60) days' prior written notice of such inspections and Licensee shall have the right to be present at and observe any such inspections, at Licensee's sole expense. However, in the event of an Emergency for which Licensor must promptly provide or restore safe and reliable service to a customer, Licensor may conduct such inspections immediately and without prior notice to Licensee. Notwithstanding the foregoing, Licensee shall pay Licensor for its actual and reasonable costs for safety inspections performed for the purpose of determining if a safety violation of which Licensor has provided written notice to Licensee has been corrected by Licensee.

8. STRUCTURE REPLACEMENT AND ABANDONMENT AND REMOVAL OF WIRELESS INSTALLATIONS

8.1 Replacement or Abandonment of Structure.

(a) If for safety, reliability or operational reasons or due to government requirements Licensor replaces a Structure to which Wireless Installations are affixed, Licensor will, upon ninety (90) days' written notice, at its own expense, remove the Wireless Installation located on the original Structure, and transfer it to the replacement Structure.

(b) Notwithstanding the foregoing, in the case of an Emergency, Licensor may remove, or replace the Wireless Installations or transfer them to replacement Structures, or perform any other work in connection with said Wireless Installations that may reasonably be required to maintain, replace, remove or relocate the Structures. In such a case, Licensee shall reimburse Licensor for the expenses incurred by Licensor. In the event of an Emergency, Licensor shall notify Licensee as soon as practicable, but in no event later than 24 hours after the Emergency.

(c) If Licensor desires to abandon any Structure, it shall give Licensee sixty (60) days' written notice, and within such time, Licensee may remove or otherwise dispose of its Wireless Installations.

(d) If a Licensor's Structure needs to be replaced in order to accommodate Wireless Installations, Licensor will replace the Structure and Licensee will reimburse Licensor for all actual and reasonable costs directly incurred by Licensor to do so. Licensor may, but shall not be required to, transfer the affected Wireless Installation to the replacement Structure after providing ninety (90) days' written notice to Licensee of the requirement to move. In the event that Licensor transfers the affected Wireless Installations, unless otherwise provided in a written Agreement between the

Parties, Licensee shall reimburse Licensor for any actual and reasonable costs associated therewith.

(e) If, upon expiration of any required notice period for removal, Wireless Installation(s) has/have not been removed, Licensor may at Licensee's sole expense, remove and dispose of the Wireless Installation(s), without any liability to Licensee for such removal and disposition.

8.2 Removal of Wireless Installations by Licensee. Licensee may at any time remove Wireless Installations from Licensor's Structures, and shall give Licensor notice of such removal within thirty (30) days after removal. No refund of any rental paid will be due on account of such removal except as provided for in section 13.3 or if triggered by casualty, fire or other harm affecting any Structure ("Casualty Event"). Licensor will provide notice to Licensee of any Casualty Event as soon as reasonably possible thereafter. In the event of damage by a Casualty Event to a Structure that cannot reasonably be expected to be repaired within forty-five (45) days following such Casualty Event or which Licensor elects not to repair, or if such Casualty Event is reasonably be expected to disrupt Licensee's operations on the Structure for more than forty-five (45) days, then Licensee may, at any time following such casualty or harm; (i) terminate the applicable Permit or affected portion thereof upon fifteen (15) days' written notice to Licensor; (ii) place a temporary facility, if feasible, at a location equivalent to Licensee's current use of the Structure until such time as the Structure is fully restored to accommodate Licensee's Wireless Installation; or (iii) permit Licensee to submit a new Application for Permit for an alternate location equivalent to Licensee's current use of the Structure, and Licensor shall waive the application fee and transfer all remaining rights to the new Structure so long as such relocation was due to a Casualty Event not directly caused by Licensee. Any such notice of termination shall cause the applicable Permit or affected portion thereof to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the applicable Permit. The rent shall abate during the period of repair following such Casualty Event in proportion to the degree to which Licensee's use of the Structure is impaired. 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.

8.3 Licensee Safety or Other Violations. If Licensor discovers any regulatory, safety or other violation of this Agreement with respect to Wireless Installations, it shall notify Licensee and Licensee shall have sixty (60) days in which to remedy such violations, except that Licensor may require quicker action in Emergency situations.

9. INSURANCE

9.1 Licensee shall at its sole cost and expense maintain the insurance coverage and limits required by this Section during the Term of this Agreement. Licensee agrees to procure the required insurance from an insurance company having and maintaining an

A.M. Best rating of at least A-VII and deliver to a Licensor a Certificate of Insurance evidencing the types of insurance and policy limits required.

9.2 Required Insurance.

(a) Workers' Compensation and Employer's Liability insurance, as required by statute, with Employer's Liability limits of \$500,000 each accident, \$500,000 by disease policy limits, and \$500,000 by disease each employee. To the extent allowed by law, the policy must include a blanket waiver of subrogation in favor of Licensor.

(b) Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing equivalent coverage, with limits of:

- \$ 2,000,000 General Aggregate Limit
- \$ 1,000,000 Each Occurrence
- \$ 1,000,000 Each Occurrence - Personal Injury and Advertising Injury
- \$ 2,000,000 Products/Completed Operations Aggregate Limit

The Commercial General Liability policy must include Licensor as an additional insured on a primary and non-contributory basis and a waiver of subrogation in favor of Licensor.

(c) Business Automobile Liability insurance with limits of at \$1,000,000 Combined Single Limit for each Accident for Bodily Injury and Property Damage, extending to all company owned, leased, and non-owned vehicles.

(d) Umbrella/Excess Liability insurance with limits of \$1,000,000 each occurrence and in the aggregate.

9.3 Licensee may meet the required insurance coverage and limits with any combination of primary and umbrella/excess liability insurance. Licensee shall provide at least thirty (30) days advance written notice of cancellation or non-renewal of any required insurance that is not replaced. Licensee will require any subcontractors performing work under this Agreement to maintain coverage and limits at least as broad as those listed above. With respect to any required policy that is issued on a "claims-made" basis, Licensee agrees to maintain coverage for two (2) years following the term of this Agreement. Notwithstanding the foregoing, Licensee may self-insure the required insurance under the same terms and conditions as outlined above.

10. ALLOCATION OF LIABILITIES

Each Party shall be liable for all damages for such injuries to third Persons or any third Person's property proximately caused by the Party's negligence or willful misconduct or by its failure to comply at any time with the practices herein provided. As used in the immediately preceding sentence, reference to injury to property shall be deemed to refer to physical damage to physical property.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY THE OTHER PARTY OR BY ANY CUSTOMER OR ANY PURCHASER OF SUCH PARTY OR ANY OTHER PERSON, FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE.

11. INDEMNIFICATION

11.1 To the extent permitted by law, Licensee shall indemnify, hold harmless and, at Licensor's sole option, defend Licensor, its principals, parents, affiliates, officers, directors, contractors, subcontractors, suppliers, licensees (other than Licensee), invitees, agents, attorneys, employees, successors and assigns (together "Licensor Indemnitees") from and against any and all liabilities, damages or claims for damage, including but not limited to all actual and reasonable costs, attorneys' fees, and other charges and expenditures that Licensor Indemnitees may incur, asserted by reason of the negligent installation, operation, use, repair, or removal of Wireless Installations or breach of the terms of this Agreement by Licensee, including acts or omissions by its agents, contractors, or subcontractors except to the extent that such liabilities, damages or claims are a result of the negligence or willful misconduct of Licensor.

11.2 To the extent permitted by law, Licensor shall indemnify, hold harmless and, at Licensee's sole option, defend Licensee, its principals, parents, affiliates, officers, directors, contractors, subcontractors, suppliers, licensees, invitees, agents, attorneys, employees, successors and assigns (together "Licensee Indemnitees") from and against any and all liabilities, damages or claims for damage, including but not limited to all actual and reasonable costs, attorneys' fees, and other charges and expenditures that Licensee Indemnitees may incur, asserted by reason of the negligent installation, operation, use, repair, or removal of Licensor's Structures or breach of the terms of this Agreement by Licensor, including acts or omissions by its agents, contractors, or subcontractors except to the extent that such liabilities, damages or claims are a result of the negligence or willful misconduct of Licensee. To the extent permitted by law, Licensor shall purchase liability insurance in an amount adequate to fulfill its obligations to indemnify and protect Licensee under this Agreement.

12. TERM

This Agreement shall commence as of the Effective Date, and, if not lawfully terminated sooner, remain in full force and effect for a term of ten (10) years, and will automatically renew for four (4) successive five (5) year terms, unless Licensee provides Licensor written notice of termination at least one hundred and eighty (180) days prior to the then-current term. Upon termination of this Agreement, Licensee shall remove Wireless Installations from all Licensor's Structures within one hundred and eighty

(180) days. If not so removed within one hundred and eighty (180) days following such termination, Licensor shall have the right to remove such Wireless Installations, and to dispose of same, at Licensee's sole expense and without any liability to Licensee for such removal and disposition.

13. DEFAULT AND TERMINATION

13.1 Default. If either Party fails to perform or observe any material term or condition of this Agreement within sixty (60) days after receipt of written notice of such failure from the other Party, then such Party will be in default of the Agreement ("Default"). No such failure, however, will be deemed to exist if a Party has commenced to cure such Default within such period and provided that such efforts are prosecuted to completion with reasonable diligence.

13.2 Licensee's Default and Licensor's Remedies. If Licensee does not cure its Default within the allotted time period, Licensor may, at its reasonable discretion, take any one or more of the following actions:

- (a) suspend Licensee's access to any or all of Licensor's Structures;
- (b) terminate the specific Permit(s) or affected portion thereof granted to Licensee covering the Structure(s) to which such Default is applicable;
- (c) require the obligation to be fulfilled;
- (d) remove, relocate, or rearrange Wireless Installations to which such Default relates (all at Licensee's sole expense);
- (e) decline to Permit additional Wireless Installations under this Agreement until all such Defaults are cured;
- (f) exercise its rights with respect to the Surety Bond; and/or
- (g) only in the case of a pattern or practice of Defaults, terminate this Agreement.

13.3 Licensor's Default and Licensee's Remedies.

(a) If Licensor does not cure its Default within the allotted time period, Licensee may, at its reasonable discretion, either terminate this Agreement or demand that the terms of this Agreement be complied with.

(b) If Licensor Defaults and Licensee elects to terminate the Agreement, Licensor shall refund any portion of advanced, prepaid Rent actually paid by Licensee pro-rated for any period of the Term remaining following the effective date of the termination of this Agreement. Licensor shall make such refund within sixty (60) days of the effective date of such termination.

13.4 Effective Date of Termination. Any termination under sections 13.2(b), 13.2(g) or 13.3(a) shall be effective upon written notice from the terminating party to the

other party. Such notice will identify the effective date of the termination, which effective date may be as early as the effective date of the notice under section 16.1.

13.5 Cumulative Remedies. The remedies provided by this section 13 are cumulative and in addition to any other remedies available under this Agreement or otherwise.

14. DISPUTE RESOLUTION PROCEDURES

As a condition precedent to the initiation of any litigation, the Parties shall in good faith attempt to settle any dispute arising out of or relating to this Agreement through upper management escalation and non-binding mediation. Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. The dispute shall be escalated to upper management to exchange relevant information and attempt to resolve the dispute. If the matter has not been resolved within thirty (30) business days of receipt of the disputing Party's notice, either Party may initiate mediation. Such mediation shall take place at a mutually agreeable location. In the event that such dispute is not resolved within ninety (90) calendar days following the first day of mediation, either Party may initiate litigation. In case of a failure of either Party to follow the foregoing, the other may seek specific enforcement of such obligation in the courts having jurisdiction hereunder.

15. CONFIDENTIALITY

Unless otherwise authorized by this section, neither Party shall at any time disclose, provide, demonstrate or otherwise make available any confidential information of the other Party ("Confidential Information"). "Confidential Information" shall include any information of a confidential or proprietary nature disclosed by a Party to this Agreement to the other Party, including the financial terms and conditions of this Agreement. Each Party shall use its best efforts and shall cause its officers, directors, employees, lenders and agents (including retained attorneys and consultants) to whom such Confidential Information may be disclosed to safeguard the confidentiality of the other Party's Confidential Information. At a minimum, such precautions shall include, but not be limited to, all precautions taken to ensure the confidentiality of such Party's own Confidential Information. Confidential Information may be disclosed (a) with the non-disclosing Party's prior written consent, or (b) as may be required by applicable law, including Open Records laws, or governmental authorities (including but not limited to disclosures necessary to obtain permits and other regulatory approvals); provided that the Party making such disclosures shall seek, and use all reasonable efforts, to obtain confidential treatment for the same. Notwithstanding anything in this Section 15 or elsewhere in this Agreement to the contrary, Licensee shall have the right, without the necessity of obtaining Licensor's consent, to provide copies of this Agreement (with financial terms redacted) and the locations of Structures to third parties as may be necessary to obtain required authorizations, or where otherwise compelled by law.

16. MISCELLANEOUS PROVISIONS

16.1 Notices. Except as provided below, all written notices shall be effective upon actual delivery or completed facsimile addressed to the other party as follows:

To Licensor:

[Redacted]

in each of the above cases, with a copy sent to:

[Redacted]

To Licensee (including bills):

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
575 Morosgo Drive NE
Atlanta, GA 30324
Re: Wireless Installation on Public Structures [Redacted] (City,
State)
Fixed Asset #

in each of the above cases (excluding bills), with a copy sent to:

New Cingular Wireless PCS, LLC
Attn: Legal Department, Network Operations
Re: Wireless Installation on Public Structures [Redacted] (City,
State)
Fixed Asset #
208 S. Akard Street
Dallas, TX 75202-4206

Contact Number for day to day operations:

Licensor: [REDACTED]
Licensee: 1-800-638-2822

Any Party may change its address or other contact information at any time by giving the other Party, and Persons named above, written notice of said change.

16.2 Force Majeure. Deadlines for completing work and providing notice under this Agreement shall be suspended for a reasonable period upon the occurrence of a force majeure event.

16.3 Assignment and Transfer. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties. Except as otherwise provided in this Agreement, neither Party shall assign this Agreement or its rights or obligations to any firm, corporation, individual, or other entity, without the written consent of the other Party, which consent shall not be unreasonably withheld. Either Party may assign its rights and obligations to an affiliate without consent upon 30 days' written notice. Affiliate for purposes of this provision is any entity that controls, is controlled by, or is under common control with a Party.

16.4 Applicable Law. This Agreement shall be interpreted, construed, and enforced, in accordance with the laws of the State of [REDACTED], without regard to its conflict of laws principles, and, where applicable, federal law.

16.5 Change of Law. In the event that any legislative, regulatory, judicial, or other action ("new law") affects the rights or obligations of the Parties, or establishes rates, terms or conditions for the construction, operation, maintenance, repair or replacement of Wireless Installation on public infrastructure or in the right-of-way, that differ, in any material respect from the terms of this agreement, then either Party may, upon thirty (30) days' written notice, require that the terms of this agreement be renegotiated to conform to the new law on a going forward basis for all existing and new small cell installations, unless the new law requires retroactive application. In the event that the Parties are unable to agree upon such new terms within 90 days after such notice, then any rates contained in the new law shall apply from the 90th day forward until the negotiations are completed or a Party obtains a ruling regarding the appropriate conforming terms from a commission or court of competent jurisdiction. Except as provided in the proceeding, all terms in the existing Agreement shall remain in effect while the parties are negotiating.

16.6 Exhibits. In the event of any inconsistency between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such incorporated Exhibits unless such Exhibit specifies otherwise.

16.7 Execution in Counterparts. This Agreement may be executed in several counterparts, including by counterpart facsimiles or emails, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

16.8 Waiver. The failure of either Party to insist on the strict enforcement of any provision of this Agreement shall not constitute a waiver of any provision.

16.9 Severability. If any portion of this Agreement is found to be unenforceable, the remaining portions shall remain in effect and the Parties shall begin negotiations for a replacement of the invalid or unenforceable portion.

16.10 Survival. The terms and provisions of this Agreement that by their nature require performance by either Party after the termination or expiration of this Agreement, shall be and remain enforceable notwithstanding such termination or expiration of this Agreement for any reason whatsoever.

16.11 Waiver of Jury Trial. Each Party waives its right to a trial by jury on disputes arising from this Agreement.

16.12 Entire Agreement; Amendments. This Agreement (including the Exhibits hereto) embodies the entire agreement between Licensee and Licensor with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, oral or written, with respect thereto. Each Party acknowledges that the other Party has not made any representations other than those contained herein. This Agreement may not be amended or modified orally, but only by an agreement in writing signed by the Party or Parties against whom any waiver, change, amendment, modification, or discharge may be sought to be enforced.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

[FULL NAME OF LICENSOR]

BY: _____

Name:

Title:

Date

**NEW CINGULAR WIRELESS PCS, LLC,
a Delaware Limited Liability Company**

BY: AT&T Mobility Corporation, Its Manager

Name:

Title:

Date

EXHIBIT A: APPLICATION FOR PERMIT

EXHIBIT B: FEES, BOND AND STATE-SPECIFIC TERMS – [STATE NAME]

Permit Application, ROW and Pole Attachment Rental Fee (Sections 3.1, 6.1) [delete any that are not applicable]

Licensors shall pay an Application Fee of \$ [] per application at the time of submission. [if different fees apply to subcategories, add here]

Licensee shall pay Rent of \$ [] per Wireless Installation for each year (or partial year) that this Agreement remains in effect.

Licensee shall pay a ROW Fee of \$ [] per Wireless Installation located in the Licensor's right of way each year (or partial year) that this Agreement remains in effect.

Surety Bond (Section 6.2)

[if there is an applicable state or local code then:]

Pursuant to [insert state or local code], the amount of Surety Bond shall be ____.

[if there is no applicable state or local code then:]

The amount of Surety Bond shall be \$5,000.

State-Specific Terms (Sections 3.1, 4.1(a)) [delete any that are not applicable; if all are not applicable, write: N/A immediately below this heading]

Each Application for Permit may request attachments to up to [] different Structures

Shot Clock

Pursuant to [insert state statute/regulation], Licensor will notify Licensee of the specific deficiencies in any incomplete Permit Application within __ days of its submission.

Pursuant to [insert state statute/regulation], Licensor will approve or reject each Permit within [] days of its submission.