

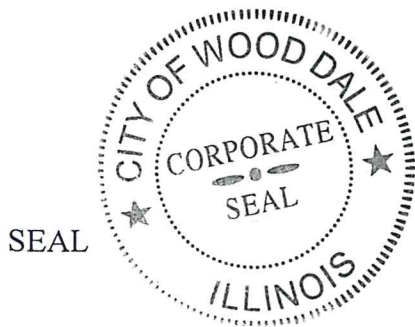
STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF DU PAGE     )

I, Lynn Curiale, City Clerk of Wood Dale, Illinois DO HEREBY CERTIFY that as such City Clerk and keeper of the records, that the foregoing is a true and correct copy of Ordinance **#O-22-011 AN ORDINANCE AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO A SITE AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS PCS, LLC**

Passed by The City Of Wood Dale, Du Page County, Illinois, IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the City of Wood Dale, this 7<sup>th</sup> day of April, 2022



Lynn Curiale, City Clerk



**Ordinance #O-22-011**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO  
A SITE AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS  
PCS, LLC**

Passed: April 7, 2022  
Published in Pamphlet Form: April 8 2022

I, Lynn Curiale, as the City Clerk for the City of Wood Dale, hereby certify that the attached Ordinance is a true and correct copy of #O-22-011

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO  
A SITE AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS  
PCS, LLC**

Passed and approved by the City Council of the City of Wood Dale on April 7, 2022 and hereby published in pamphlet on April 8, 2022



Lynn Curiale, City Clerk

**ORDINANCE NO. O-22-011**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT  
TO A SITE AGREEMENT BETWEEN THE CITY AND  
NEW CINGULAR WIRELESS PCS, LLC**

**WHEREAS**, the City of Wood Dale (hereinafter the "City") is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

**WHEREAS**, the City is empowered, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-76-1, to lease its property; and

**WHEREAS**, New Cingular Wireless PCS, LLC (the "Tenant") and the City are Parties to Site Agreement (the "Site Agreement") for the lease of City Property located at 1417 North Wood Dale Road, Wood Dale, Illinois, 60191 (the "Premises") for the purpose maintaining and operating facilities for wireless telecommunications, which Site Agreement is set to expire on December 31, 2022; and

**WHEREAS**, the Parties have determined to negotiate a First Amendment to the Site Agreement to adjust the term of the Site Agreement as well as the required monthly rent payment to the City, for the mutual benefit of the Parties; and

**WHEREAS**, the City has determined that its use of the Premises is not necessary, appropriate, required for the use of, profitable to, or for the best interests of the City; and

**WHEREAS**, the City has deemed the efficient provision of wireless services to be a positive contribution to the well-being of the City and its residents; and

**WHEREAS**, the City has determined it is in the best interest of the City to execute a First Amendment to the Site Agreement for the use of the Premises for the installation, maintenance and operation of telecommunications equipment, a copy of which is attached hereto and incorporated herein by reference as Exhibit "A"; and

**WHEREAS**, in accordance with its authority under Section 11-76-1 of the Illinois Municipal Code, ~~65 ILCS 5/11-76-1~~, the Mayor and the City Council of the City hereby seek to approve the First Amendment to the Site Agreement with the Tenant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WOOD DALE, DUPAGE COUNTY, AN ILLINOIS CORPORATION, as follows:**

**SECTION 1:** The recitals set forth above are incorporated herein and made a part hereof.

**SECTION 2:** That the First Amendment to the Site Agreement with New Cingular Wireless PCS, LLC, in substantially the same form as attached to this Ordinance as

Exhibit A, and incorporated herein by reference, is approved and accepted by the City of Wood Dale.

**SECTION 3:** The Mayor is authorized to execute the First Amendment to the Site Agreement on behalf of the City of Wood Dale.

**SECTION 4:** The Mayor, the City Manager, Staff and/or the City Attorney shall take the steps necessary to put the terms and conditions of the First Amendment to the Site Agreement into effect.

**SECTION 5:** That all ordinances and resolutions, or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

**SECTION 6:** That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

PASSED this 7th day of April, 2022

AYES: 8

NAYS: 0

ABSENT: 0

APPROVED this 7th day of April, 2022

SIGNED: *Annunziato Pulice*  
Annunziato Pulice, Mayor

ATTEST: *Lynn Curiale*  
Lynn Curiale, City Clerk

Market: IL / WI  
Cell Site Number: IL0189  
Cell Site Name: Wood Dale North  
Fixed Asset Number: 10005199

### FIRST AMENDMENT TO SITE AGREEMENT

THIS FIRST AMENDMENT TO SITE AGREEMENT (“**Amendment**”) dated as of the later date below is by and between City of Wood Dale, Illinois, a municipal corporation, having a mailing address at 404 North Wood Dale Road, Wood Dale, IL 60191 (“**City**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, successor by merger to Cellular One-Chicago, a Division of Southwestern Bell Mobile Systems, Inc., a corporation incorporated under the laws of the State of Delaware and the Commonwealth of Virginia, having a mailing address at 1025 Lenox Park Blvd. NE, 3rd Floor, Atlanta, GA 30319 (“**Tenant**”).

WHEREAS, City and Tenant (or its affiliate or predecessor in interest) entered into a Site Agreement dated December 1, 1992, whereby City leased to Tenant certain Premises, therein described, that are a portion of the Real Property located at 1417 North Wood Dale Road, Wood Dale, IL 60191 (the “**Agreement**”); and

WHEREAS, the term of the Agreement will expire on December 31, 2022, and the parties mutually desire to renew the Agreement, memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions contained herein; and

WHEREAS, City and Tenant desire to amend the Agreement to extend the term of the Agreement; and

WHEREAS, City and Tenant desire to adjust the Rent in conjunction with the modifications to the Agreement contained herein; and

WHEREAS, City and Tenant desire to amend the Agreement to clarify the scope of Tenant's permitted use of the Premises; and

WHEREAS, City and Tenant, desire to amend the Agreement to modify the notice section thereof; and

WHEREAS, City and Tenant, in their mutual interest, wish to amend the Agreement as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Tenant agree as follows:

1. **Term.** The Term of the Agreement shall be amended to provide that the current term, which commenced on January 1, 2018, shall expire on December 31, 2022 (“**Current Term**”),

and commencing on January 1, 2023, will be automatically renewed, upon the same terms and conditions of the Agreement, for five (5) additional five (5) year terms (each an “**Extended Term**”). Hereafter, “**Term**” shall include the Current Term and any applicable Extended Term. The Terms will automatically renew without further action by Tenant, unless Tenant notifies City in writing of Tenant’s intention not to renew the Agreement at least sixty (60) days prior to the expiration of the Current Term or any Extended Term. City agrees and acknowledges that, except as such permitted use or other rights may be amended herein, Tenant may continue to use and exercise its rights under the Agreement as permitted prior to the first Extended Term.

2. **Termination.** In addition to any rights that may exist in the Agreement, Tenant may terminate the Agreement at any time with thirty (30) days prior written notice to City for any or no reason.

3. **Modification of Rent.** Commencing on January 1, 2023, the current Rent payable under the Agreement shall be Four Thousand and No/100 Dollars (\$4,000.00) per month, and shall continue during the Term, subject to adjustment, if any, as provided below. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount.

4. **Future Rent Increase / Annual Increase.** The Agreement is amended to provide that commencing on January 1, 2024, and each January 1st thereafter, Rent shall increase by two percent (2%).

5. **Permitted Use.** Tenant, its personnel, invitees, contractors, agents, subTenants, or its authorized sublessees, or assigns may use the Premises, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, expand, including but not limited to the number and type(s) of antennas, or refurbish the equipment and/or improvements thereon or relocate the same within the Premises at any time during the term of the Agreement for any reason, or 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, or for any other reason. City shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. If City does not comply with the terms of this section, in addition to any other rights it may have at law, Tenant may terminate the Agreement and shall have no further liability to City. If City does not comply with the terms of this section, Tenant will have the right to exercise any and all rights may available to it under law and equity, including the right to cure City’s default and to deduct the costs of such cure from any monies due to City from Tenant.

6. **Acknowledgement.** City acknowledges that: 1) this Amendment is entered into of the City’s free will and volition; 2) City has read and understands this Amendment and the underlying Agreement and, prior to execution of this Amendment, was free to consult with counsel of its choosing regarding City’s decision to enter into this Amendment and to have counsel review the terms and conditions of this Amendment; 3) City has been advised and is informed that should City not enter into this Amendment, the underlying Agreement between

City and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect.

7. **Notices.** Paragraph Part II, Paragraph G of the Agreement is hereby deleted in its entirety and replaced with the following:

**NOTICES.** All notices, requests, demands and communications 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 as follows.

If to City:

City of Wood Dale, Illinois  
Attn: Finance Director  
404 North Wood Dale Road  
Wood Dale, IL 60191

If to Tenant:

New Cingular Wireless PCS, LLC  
Attn: TAG – LA  
Re: Cell Site #: IL0189  
Cell Site Name: Wood Dale North (IL)  
Fixed Asset #: 10005199  
1025 Lenox Park Blvd. NE  
3rd Floor  
Atlanta, GA 30319

With a copy to:

New Cingular Wireless PCS, LLC  
Attn: Legal Department  
Re: Cell Site #: IL0189  
Cell Site Name: Wood Dale North (IL)  
Fixed Asset #: 10005199  
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. Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

**8. Sale of Real Property.**

(a) City shall not be prohibited from the selling, leasing or use of any of the Real Property or the surrounding Real Property except as provided below.

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

- i. Old deed to Real Property
- ii. New deed to Real Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed AT&T Payment Direction Form
- vii. Full contact information for new City including phone number(s)

(c) City agrees not to sell, lease or use any areas of the Real Property or Surrounding Real Property for the installation, operation or maintenance of other wireless communications facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. City or City's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, City shall be prohibited from selling, leasing or using any areas of the Real Property or the surrounding Real Property for purposes of any installation, operation or maintenance of any other wireless communications facility or equipment. This Paragraph shall not be construed as applicable to wireless communications facilities existing or modified which have been installed on the Real Property or Surrounding Real Property under separate agreements with the City.

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

**9. Right of First Refusal.** Notwithstanding any other provisions contained in the Agreement, if at any time after the Effective Date, City receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with the Agreement or an offer to purchase an easement with respect to the Premises ("**Offer**"), City shall immediately furnish Tenant with a copy of the Offer. Tenant shall have the right within ninety (90) days after it receives such copy to match the financial terms of the Offer and agree in writing to match such terms of the Offer. Such writing shall be in the form of a contract substantially similar to the Offer, but Tenant may assign its rights to a third party. If Tenant chooses not to exercise this right or fails to provide written notice to City within the ninety (90) day period, City may sell, convey, assign or transfer such property interest in or related to the Premises pursuant to the



Offer, subject to the terms of the Agreement. If City attempts to sell, convey, assign or transfer such property interest in or related to the Premises without complying with this Paragraph 9, the sale, conveyance, assignment or transfer shall be void. Tenant shall not be responsible for any failure to make payments under the Agreement and reserves the right to hold payments due under the Agreement until City complies with this Paragraph 9. Tenant's failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Paragraph 9 with respect to any future proposed conveyances as described herein.

**10. Charges.** All charges payable under the Agreement such as utilities and taxes shall be billed by City 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 City, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by City. The provisions of this subsection shall survive the termination or expiration of the Agreement.

**11. Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

**12. Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

[NO MORE TEXT ON THIS PAGE - SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment to be effective as of the last date written below.

**CITY:**  
City of Wood Dale, Illinois,  
a municipal corporation

**TENANT:**  
New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager

By: Annunziato Pulice

By: \_\_\_\_\_

Print Name: ANNUNZIATO PULICE

Print Name: \_\_\_\_\_

Its: MAYOR

Its: \_\_\_\_\_

Date: 7-22

Date: \_\_\_\_\_



[ACKNOWLEDGEMENTS APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment to be effective as of the last date written below.

**CITY:**

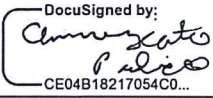
City of Wood Dale, Illinois,  
a municipal corporation

**TENANT:**

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

By: AT&T Mobility Corporation

Its: Manager

By:  CE04B18217054C0...

Print Name: Annunziato Pulice

Its: Mayor

Date: 4/27/2022

By:  DBC6A9883B9B418...

Print Name: Allean Smith

Its: Sr Tech Vendor Mngmt

Date: 5/3/2022

[ACKNOWLEDGEMENTS APPEAR ON THE NEXT PAGE]

**CITY ACKNOWLEDGEMENT**

STATE OF Illinois )  
 ) SS.  
COUNTY OF DuPage )

I CERTIFY that on April 7, 2022,  
Mays Anagnostis fidis [name of representative] personally came before me and  
acknowledged under oath that he or she:

- (a) is the Mays [title] of City of Wood Dale, Illinois, a  
**municipal corporation**, the corporation named in the attached instrument;
- (b) was authorized to execute this instrument on behalf of the corporation; and
- (c) executed the instrument as the act of the corporation.

Notary Public: Lynn Curiale  
My Commission Expires: \_\_\_\_\_

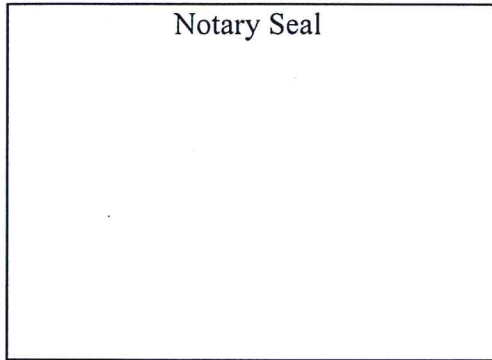


**TENANT ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of AT&T Mobility Corporation, the Manager of **New Cingular Wireless PCS, LLC, a Delaware limited liability company**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.



\_\_\_\_\_  
(Signature of Notary)  
\_\_\_\_\_  
(Legibly Print or Stamp Name of Notary)  
Notary Public in and for the State of \_\_\_\_\_  
\_\_\_\_\_  
My appointment expires: \_\_\_\_\_