FIRST AMENDMENT TO TELECOMMUNICATIONS LICENSE AGREEMENT

THIS FIRST AMENDMENT TO TELECOMMUNICATIONS LICENSE AGREEMENT (the "First Amendment") is made effective this 29 day of July , 2022 ("Effective Date"), by and between THE CITY OF MORENO VALLEY, MORENO VALLEY COMMUNITY SERVICES DISTRICT (hereinafter referred to as "Licensor") and NCWPCS MPL 35 - YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company, by and through its Attorney In Fact, CCATT LLC, a Delaware limited liability company (hereinafter referred to as "Licensee").

RECITALS

WHEREAS, Licensor and New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Original Licensee") entered into a Telecommunications License Agreement dated August 8, 2008 (the "License") whereby Original Licensee leased certain real property, together with access and utility easements, located in Riverside County, California from Licensor (the "Premises"), all located within certain real property owned by Licensor ("Licensor's Property"); and

WHEREAS, NCWPCS MPL 35 - Year Sites Tower Holdings LLC is currently the Licensee under the License as successor in interest to the Original Licensee; and

WHEREAS, the Premises may be used for the purpose of constructing, maintaining and operating a communications facility, including tower structures, equipment shelters, cabinets, meter boards, utilities, antennas, equipment, any related improvements and structures and uses incidental thereto; and

WHEREAS, the License had an initial term that commenced on November 4. 2008 and expired on November 3, 2013. The License provides for five (5) extensions of five (5) years each, two (2) of which were exercised by Licensee. According to the License, the final extension expires on November 3, 2038; and

WHEREAS, Licensor and Licensee desire to amend the License on the terms and conditions contained herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Licensor and Licensee agree as follows:

- 1. <u>Recitals; Defined Terms</u>. The parties acknowledge the accuracy of the foregoing recitals. Any capitalized terms not defined herein shall have the meanings ascribed to them in the License.
- 2. <u>Consent to Sublicense</u>. In accordance with Section 13 of the License, Licensor hereby acknowledges and agrees to the sublicense of a portion of the Premises, as expanded, to Dish Network Corporation or an affiliate or subsidiary (the "Dish Subtenant") for purposes of installation, maintenance and replacement of equipment, antennas, cables, fiber, and related accessories on the Premises for the operation of a wireless communications facility thereon. As

Site Name: RS0029-01Weston Park Business Unit #: 856551 used herein, the term "sublease" includes any arrangement by which a third party can collocate its equipment at the Premises, whether it is by sublease, license, easement or any other agreement or arrangement.

- 3. <u>First Additional Lease Area.</u> The existing Premises is hereby expanded in size to include additional space, which consists of a forty eight (48) square foot parcel of real property adjacent to the existing Premises at a location more particularly described on <u>Exhibit A-1</u> attached hereto and shown on the Site Plan attached hereto as <u>Exhibit B</u> (the "First Additional Lease Area"). The Premises, as expanded, is described on <u>Exhibit A-2</u> attached hereto. Notwithstanding anything to the contrary in this First Amendment, Licensee is not relinquishing any rights to any lease area, access easements, and/or utility easements that it possesses prior to the date of this First Amendment. In the event the location of any of Licensee's or its sublessees' existing improvements, utilities, and/or access routes are not depicted or described on the Site Plan and/or legal descriptions, Licensee's leasehold rights and access and utility easement rights over such areas shall remain in full force and effect and the Premises shall be deemed to include such areas.
- 4. <u>First Additional Rent</u>. In consideration of the lease of the First Additional Lease Area, Licensee agrees to pay to Licensor fifty percent (50%) of the rental, license or similar payments actually received by Licensee from such Dish Subtenant (excluding any reimbursement of taxes, construction costs, installation costs, or revenue share reimbursement) (the "First Additional Rent") within thirty (30) days after receipt of said payments by Licensee. Licensee shall have no obligation for payment to Licensor of such share of rental, license or similar payments if not actually received by Licensee. Non-payment of such rental, license or other similar payment by the Dish Subtenant shall not be an event of default under the License. Licensee shall have sole discretion as to whether, and on what terms, to sublease, license or otherwise allow occupancy of the Premises. Licensee shall pay to Licensor the First Additional Rent until the earlier of (i) the expiration of the term of License; or (ii) the expiration or termination of the sublease with the Dish Subtenant.
- 5. Right to Return the First Additional Lease Area. Licensee shall have the option, upon thirty (30) days prior written notice to Licensor, in its sole and absolute discretion, to return the First Additional Lease Area to the Licensor and to terminate the lease of the same by removing all improvements from the First Additional Lease Area and returning same to its condition as of the Effective Date, ordinary wear and tear excepted (the "Return of the First Additional Lease Area"). Effective upon removal of all improvements from the First Additional Lease Area, the First Additional Rent shall cease and will no longer be due or payable.
- 6. <u>Representations, Warranties and Covenants of Licensor</u>. Licensor represents, warrants and covenants to Licensee as follows:
- a) Licensor is duly authorized to and has the full power and authority to enter into this First Amendment and to perform all of Licensor's obligations under the License as amended hereby.
- b) Licensee is not currently in default under the License, and to Licensor's knowledge, no event or condition has occurred or presently exists which, with notice or the passage of time or both, would constitute a default by Licensee under the License.

- c) Licensor agrees to provide such further assurances as may be requested to carry out and evidence the full intent of the parties under the License as amended hereby, and ensure Licensee's continuous and uninterrupted use, possession and quiet enjoyment of the Premises under the License as amended hereby.
- d) Licensor acknowledges that the Premises, as defined, shall include any portion of Licensor's Property on which communications facilities or other Licensee improvements exist on the date of this First Amendment.
- 7. <u>Notices</u>. Licensee's notice address as stated in Section 18B of the License is amended as follows:

If to Licensee:

NCWPCS MPL 35 - Year Sites Tower Holdings LLC

Legal Department

Attn: Network Legal

208 S. Akard Street

Dallas, TX 75202-4206

With a copy to:

CCATT LLC

Attn: Legal – Real Estate Department

2000 Corporate Drive

Canonsburg, PA 15317

- 8. <u>IRS Form W-9</u>. Licensor agrees to provide Licensee with a completed IRS Form W-9, or its equivalent, upon execution of this First Amendment and at such other times as may be reasonably requested by Licensee. In the event the Licensor's Property is transferred, the succeeding Licensor shall have a duty at the time of such transfer to provide Licensee with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in the rent to the new Licensor. Licensor's failure to provide the IRS Form W-9 within thirty (30) days after Licensee's request shall be considered a default and Licensee may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.
- 9. <u>Counterparts</u>. This First Amendment may be executed in separate and multiple counterparts, each of which shall be deemed an original but all of which taken together shall be deemed to constitute one and the same instrument.
- 10. <u>Remainder of License Unaffected</u>. In all other respects, the remainder of the License shall remain in full force and effect. Any portion of the License that is inconsistent with this First Amendment is hereby amended to be consistent.
- 11. <u>Recordation</u>. Licensee, at its cost and expense, shall have the right to record a memorandum of this First Amendment in the Official Records at any time following the execution of this First Amendment by all parties hereto. In addition, Licensee shall have the right in its discretion, to record a notice of lease, affidavit or other form to be determined by Licensee without

Licensor's signature in form and content substantially similar to the memorandum, to provide record notice of the terms of this First Amendment.

[Signature pages follow]

Licensor and Licensee have caused this First Amendment to be duly executed on the day and year first written above.

LICENSOR:

THE CITY OF MORENO VALLEY, MORENO VALLEY COMMUNITY SERVICES DISTRICT

Print Name: Yxstian A.

Title: Mayor

Licensor affirms that this First Amendment was approved at a duly noticed public meeting held on June 21, 2022

[Licensee Execution Page Follows]

This First Amendment is executed by Licensee as of the date first written above.

LICENSEE:

NCWPCS MPL 35 - YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company

By: CCATT LLC, a Delaware limited

Matthew Norwood

By: C405A6BC4B274B7...

Print Name: Matthew Norwood

Title: Sr. Manager National Transactions

Business Unit #: 856551

EXHIBIT A-1 (Legal Description of the First Additional Lease Area)

THAT PORTION OF LOTS 4 & 5, BLOCK 66 IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN IN BOOK OF MAPS 11, PAGE 10 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS;

COMMENCE AT A FOUND 4"X4" MONUMENT IN A HANDHOLE AT THE INTERSECTION OF THE CENTERLINES OF LASSELLE STREET AND DRACAEA AVENUE;

THENCE WITH THE CENTERLINE OF LASSELLE STREET NORTH 0°00'10" EAST, 482.26 FEET;

THENCE DEPARTING THE CENTERLINE OF LASSELLE STREET SOUTH 89°59'50" EAST, 94.57 FEET;

THENCE NORTH 88°47'20" EAST, 26.10 FEET;

THENCE SOUTH 1°12'40" EAST, 26.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 88°47'20" EAST, 6.00 FEET;

THENCE SOUTH 1°12'40" EAST, 8.00 FEET;

THENCE SOUTH 88°47'20" WEST, 6.00 FEET;

THENCE NORTH 1°12'40" WEST, 8.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 48 SQUARE FEET, OR 0.001 ACRES, MORE OR LESS.

EXHIBIT A-2 (Legal Description of the Premises, as expanded)

EXISTING PREMISES (also referred to as Existing Lease on Exhibit B)

THAT PORTION OF LOTS 4 & 5, BLOCK 66 IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN IN BOOK OF MAPS 11, PAGE 10 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS;

COMMENCE AT A FOUND 4"X4" MONUMENT IN A HANDHOLE AT THE INTERSECTION OF THE CENTERLINES OF LASSELLE STREET AND DRACAEA AVENUE;

THENCE WITH THE CENTERLINE OF LASSELLE STREET NORTH 0°00'10" EAST, 482.26 FEET;

THENCE DEPARTING THE CENTERLINE OF LASSELLE STREET SOUTH 89°59'50" EAST, 94.57 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 88°47'20" EAST, 26.10 FEET;

THENCE SOUTH 1°12'40" EAST, 38.20 FEET;

THENCE NORTH 88°47'20" EAST, 3.20 FEET;

THENCE SOUTH 1°12'40" EAST, 16.30 FEET;

THENCE SOUTH 88°47'20" WEST, 9.20 FEET;

THENCE NORTH 1°12'40" WEST, 6.50 FEET;

THENCE SOUTH 88°47'20" WEST, 9.50 FEET;

THENCE NORTH 1°12'40" WEST, 8.90 FEET;

THENCE SOUTH 88°47'20" WEST, 10.60 FEET;

THENCE NORTH 1°12'40" WEST, 39.10 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1250 SQUARE FEET, OR 0.029 ACRES, MORE OR LESS.

DESCRIPTION OF PREMISES, AS EXPANDED BY FIRST ADDITIONAL LEASE AREA (also referred to as Tower Lease as Exhibit B

THAT PORTION OF LOTS 4 & 5, BLOCK 66 IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN IN BOOK OF MAPS 11, PAGE 10 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS;

COMMENCE AT A FOUND 4"X4" MONUMENT IN A HANDHOLE AT THE INTERSECTION OF THE CENTERLINES OF LASSELLE STREET AND DRACAEA AVENUE;

THENCE WITH THE CENTERLINE OF LASSELLE STREET NORTH 0°00'10" EAST, 482.26 FEET;

THENCE DEPARTING THE CENTERLINE OF LASSELLE STREET SOUTH 89°59'50" EAST, 94.57 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 88°47'20" EAST, 26.10 FEET;

THENCE SOUTH 1°12'40" EAST, 26.00 FEET;

THENCE NORTH 88°47'20" EAST, 6.00 FEET;

THENCE SOUTH 1°12'40" EAST, 8.00 FEET;

THENCE SOUTH 88°47'20" WEST, 6.00 FEET;

THENCE SOUTH 1°12'40" EAST, 4.20 FEET;

THENCE NORTH 88°47'20" EAST, 3.20 FEET;

THENCE SOUTH 1°12'40" EAST, 16.30 FEET;

THENCE SOUTH 88°47'20" WEST, 9.20 FEET;

THENCE NORTH 1°12'40" WEST, 6.50 FEET;

THENCE SOUTH 88°47'20" WEST, 9.50 FEET;

THENCE NORTH 1°12'40" WEST, 8.90 FEET;

THENCE SOUTH 88°47'20" WEST, 10.60 FEET;

THENCE NORTH 1°12'40" WEST, 39.10 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1298 SQUARE FEET, OR 0.030 ACRES, MORE OR LESS.

NON-EXCLUSIVE ACCESS & UTILITY EASEMENT

A 6.00 FOOT WIDE STRIP OF LAND OVER THAT PORTION OF LOTS 4 & 5, BLOCK 66 IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN IN BOOK OF MAPS 11, PAGE 10 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING 3.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCE AT A FOUND 4"X4" MONUMENT IN A HANDHOLE AT THE INTERSECTION OF THE CENTERLINES OF LASSELLE STREET AND DRACAEA AVENUE;

THENCE WITH THE CENTERLINE OF LASSELLE STREET NORTH 0°00'10" EAST, 482.26 FEET;

THENCE DEPARTING THE CENTERLINE OF LASSELLE STREET SOUTH 89°59'50" EAST, 94.57 FEET;

THENCE NORTH 88°47'20" EAST, 26.10 FEET;

THENCE SOUTH 1°12'40" EAST, 38.20 FEET;

THENCE NORTH 88°47'20" EAST, 6.20 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 1°12'40" EAST, 8.16 FEET;

THENCE NORTH 89°12'58" EAST, 45.65 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 27.50 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°46'53", AN ARC LENGTH OF 16.69 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 32.50 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 66°08'54", AN ARC LENGTH OF 37.52 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 27.50 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 61°53'25", AN ARC LENGTH OF 29.71 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 22.50 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 63°21'40", AN ARC LENGTH OF 24.88 FEET TO A POINT OF TANGENCY;

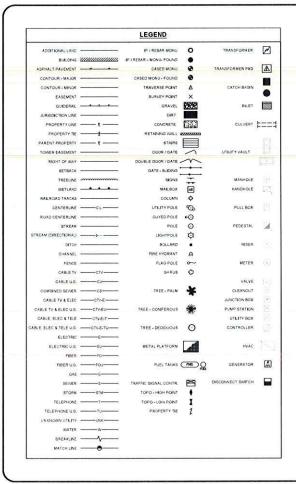
THENCE NORTH 56°22'42" EAST, 17.25 FEET TO THE POINT OF TERMINUS ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MOHICAN DRIVE.

THE SIDELINES OF SAID STRIP OF LAND SHALL BE LENGTHENED OR SHORTENED AS NECESSARY TO ELIMINATE ANY GAPS AND OVERLAPS OVER THE TOWER LEASE AREA AND SOUTHWESTERLY RIGHT OF WAY LINE OF MOHICAN DRIVE.

CONTAINING 1079 SQUARE FEET, OR 0.025 ACRES, MORE OR LESS.

EXHIBIT B (Site Plan)

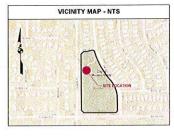
Site Name: RS0029-01Weston Park Business Unit #: 856551



TOWER SURVEY

856551

RS0029-01 WESTON PARK 13156 LASSELLE STREET MORENO VALLEY, CALIFORNIA 92555 RIVERSIDE COUNTY



AREA SUMMARY

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AREA	SQ. FT.	ACRES
PARENT PARCEL	±180,609	±4.416
EXISTING LEASE	±1,250	±0.029
ADDITIONAL LEASE	±48	±0.001
TOWER LEASE	±1,298	±0.030
ACCESS & UTILITY EASEMENT	±1,079	0.025

SURVEY PROCEDURES & EQUIPMENT

INSTRUMENTS USED
- SPECTRA PRECISION SPEC GNSS RECEIVER USING THE
SMARTNET VRS NETWORK
- TRIMBLE SS SERIES ROBOTIC TOTAL STATION

CONTENTS

COVER SHEET	
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ABBREVIATIONS

P.O.C.	POINT OF COMMENCEMENT
T.P.O.B.	TRUE POINT OF BEGINNING
R.O.W.	RIGHT-OF-WAY
C.L.	CENTERLINE
P.L	PROPERTY LINE



LEASE AREA FLOOD NOTE:

ZONE "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PARTE NO. 06065 C 0765 O, EFFICITIVE ANGUST 78, 2008. AND IS NOT PARTIALLY LOCATED WITHIN A SPECIAL FLOOD PAZZED AREA.

BASIS OF NORTH:
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COUNTY RECORDS. SPE LOCATED IN CAUTIONNA ZONE VI PERSOZZIO - NACES.

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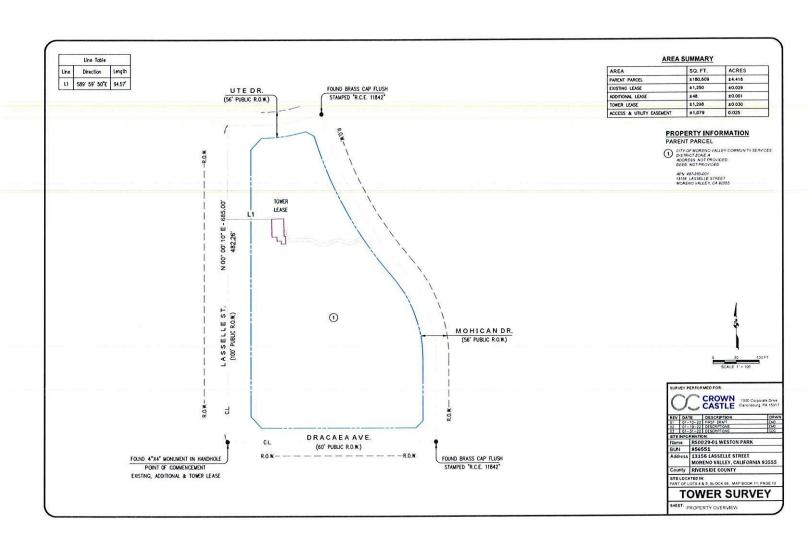
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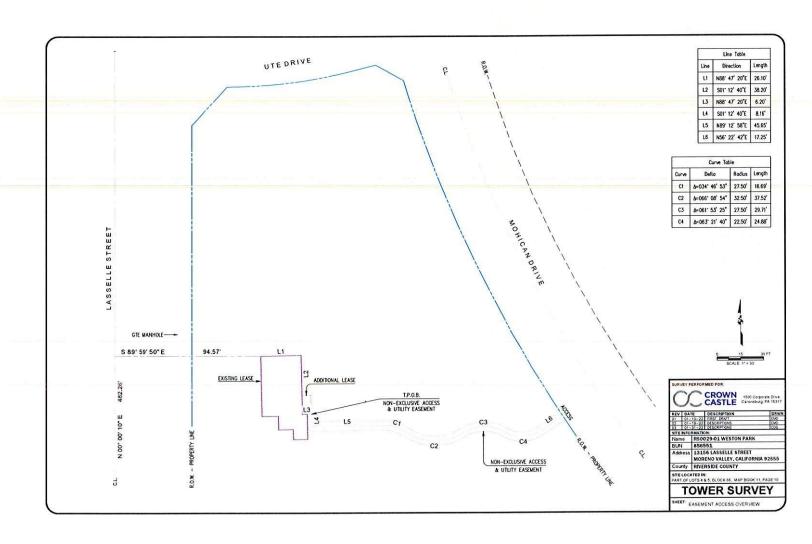
(ALFORN TOR'N ** PERSONNED STEEL STEEL

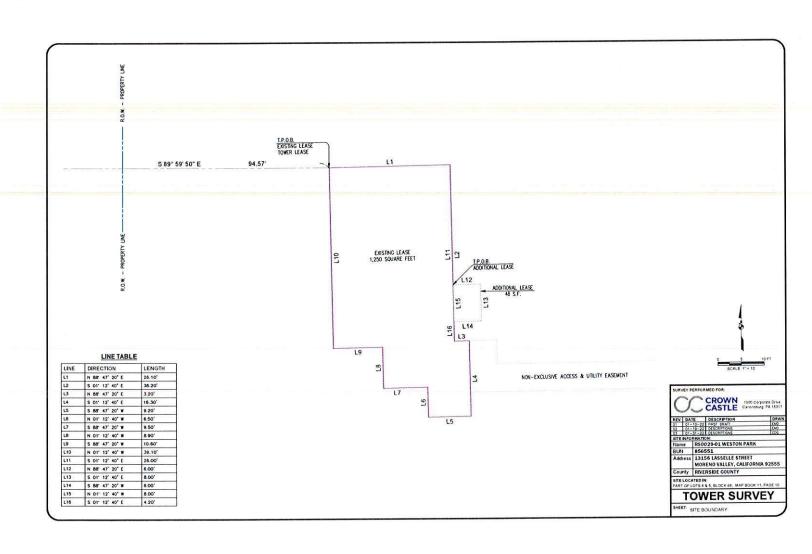
Name RS0029-01 WESTON PARK
BUN 856551
Address 13156 LASSELLE STREET MORENO VALLEY, CAL County RIVERSIDE COUNTY

TOWER SURVEY

COVER SHEET







CITY OF MORENO VALLEY TELECOMMUNICATIONS LICENSE AGREEMENT

This Telecommunications License Agreement ("License") is effective as of the date signed by Licensor and is by and between THE CITY OF MORENO VALLEY, THE MORENO VALLEY COMMUNITY SERVICES DISTRICT, AND THE MORENO VALLEY REDEVELOPMENT AGENCY hereinafter called "Licensor," and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company hereinafter called "Licensee."

The parties agree as follows:

1. Premises.

Licensor owns the real property located at 13170 Lasselle Street, Moreno Valley, CA 92553 and legally described in Exhibit "A" hereinafter called "Property." Subject to the following terms and conditions, Licensor licenses to Licensee that portion of Licensor's Property depicted in Exhibit "B," including all necessary and reasonable access and utility rights for installation, operation, and maintenance of Licensee's equipment, structures, and utilities (the "Premises"). Exhibit "C," Conditional Use Permit and Conditions of Approval, is attached hereto and incorporated by reference into this License Agreement.

2. Use.

- A. The Premises may be used by Licensee for any lawful activity in connection with the provision of mobile/wireless communications services, including without limitation, the transmission and the reception of radio communication signals on various frequencies and the construction, maintenance and operation of related communications facilities, subject to the terms and conditions of this License.
- B. Licensee shall use the Premises in compliance with all applicable laws, statutes, ordinances, rules, regulations and orders in effect.
- C. Licensor agrees, at no expense to Licensor, to cooperate with Licensee, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Licensee's intended use of the Premises.
- D. The terms and conditions in this License are offered solely to Licensee as an inducement to execute the License for the Premises. Licensor would not necessarily license the Premises to another licensee on such favorable terms and conditions, it being understood that Licensor is specifically relying on the identity of Licensee in agreeing to the terms and conditions in this License. Licensee acknowledges that the License terms and conditions are for Licensee's benefit only so long as Licensee operates the business allowed by this License. But for the previously stated reasons,

Licensor would not enter into this License. Therefore, Licensee shall not voluntarily, involuntarily, or by operation of laws, sublicense all or any part of the Premises or allow it to be assigned or sublicensed to any person or entity other than Licensee except as otherwise permitted under Section 13.

E. Licensee shall not voluntarily, involuntarily, or by operation of laws, sublicense all or any part of the Premises or allow it to be sublicensed, to any person or entity other than Licensee (except as otherwise permitted under Section 13) without the prior written approval of Licensor, which approval will not be unreasonably withheld, delayed or conditioned. In the event Licensee sublicenses or permits the collocation of equipment or antenna space within the Premises or on Licensee's pole to a communications carrier unaffiliated to Licensee, the Rent (as defined below) due under this License shall increase by an amount equal to Fifty Percent (50%) of the current rent at the time of the sublicensing or collocation for each month the additional carrier's equipment is located within the Premises or on the pole. Notwithstanding anything in this License to the contrary, nothing in this License shall prohibit the shared use of Licensee's Facilities (as defined below) with another party pursuant to a strategic alliance, roaming, or other agreement with Licensee; provided, however, such third party does not install any equipment in or upon the Premises.

Conditions Precedent.

This License is conditioned upon Licensee obtaining all necessary federal, state, or local governmental permits and approvals enabling Licensee to construct and operate mobile/wireless communications facilities on the Premises.

4. Term.

This License is binding and in effect upon full execution and delivery by Licensor and Licensee. The term of this License ("Term") shall be five (5) years commencing sixty (60) days after Licensee has obtained all permits and approvals necessary to construct and operate Licensee's Facilities (as defined in Section 6B below) on the Premises ("Commencement Date"). Licensee shall have the right to extend the Term of this License for five (5) additional terms ("Renewal Term") of five (5) years each. The terms and conditions for the Renewal Term shall be the same terms and conditions of this License, except that the Rent shall be increased as set forth in Section 5. This License shall automatically be extended for each successive five (5) year Renewal Term unless notice is provided in writing of Licensor's, or Licensee's intention not to extend this License at least thirty (30) days but not more than 180 days prior to the expiration of the first five year Term or any Renewal Term.

At the expiration of the final Renewal Term of the License Agreement, Licensor and Licensee, at their option, shall renegotiate the License Agreement.

5. Rent.

- A. In consideration of the rights granted by this License, upon the Commencement Date and throughout the initial Term of this License, Licensee shall pay Licensor the sum of Thirty Thousand Dollars (\$30,000.00) per year as rent ("Rent"). Rent shall be payable on the Commencement Date, in advance, in monthly installments of Two Thousand Five Hundred Dollars (\$2,500.00)*,plus maintenance fee to Licensor at the address specified in Section 18 below. The rent shall increase at a rate of 3% each year on the anniversary date of the Commencement Date, for the remaining term of the License Agreement.
- B. * Rent is assessed based on a building size (including roofline) not exceeding 400 square feet, and one telecommunication tower. Buildings exceeding 400 square feet will be assessed at an initial rate of \$5.00 a square foot. Buildings less than 400 square feet will be assessed initial Rent of Two Thousand Dollars (\$2,000.00). The building design submitted by the Licensee is 500 square feet at roofline.
- C. If the Rent is not received by Licensor on or before the fifteenth (15th) day following the due date, it shall be deemed delinquent. If the Rent is not paid before delinquency, then the amount due and unpaid shall be subject to a late charge at the rate of five percent (5%) of the overdue amount, without limitation to Licensor's other rights and remedies under this License.
- D. Licensee may request to expand the Premises. Licensee must submit plans showing the proposed use beyond the existing square footage, and if determined to be in Licensor's best interests, Licensor will provide written consent, which consent will not be unreasonably withheld, conditioned, or delayed. Rent shall be increased in proportion to the extra square footage included in the revised Premises.

6. Improvements; Access.

A. Licensee shall have the right (but not the obligation) at any time following the full execution and delivery of this License and prior to the Commencement Date, to enter the Premises for the purpose of making necessary inspections and engineering surveys (and soil tests where applicable) and other reasonably necessary tests (collectively "Tests") to determine the suitability of the Premises for Licensee's Facilities (as defined herein) and for the purpose of preparing for the construction of Licensee's Facilities. During any Tests or pre-construction work, Licensee will have in effect the insurance required in Section 12, Insurance. Licensee will notify Licensor of any proposed Tests or pre-construction

work and will coordinate the scheduling of same with Licensor. If Licensee determines that the Premises are unsuitable for Licensee's contemplated use, then Licensee will notify Licensor and this License will terminate.

- B. Subject to all terms and conditions of this License, Conditional Use Permit, and Approved Plans and Specs, Licensee has the right to construct. maintain and operate on the Premises radio communications facilities. including but not limited to, radio frequency transmitting and receiving equipment, batteries, utility lines, transmission lines, radio frequency transmitting and receiving antennas and structures, ("Licensee's Facilities") and lighting as specifically identified on the attached Exhibit B. In connection therewith, Licensee has the right to do all work necessary to prepare, add, maintain and alter the Premises for Licensee's communications operations and to install utility lines and transmission lines connecting antennas to transmitters and receivers, except that any change to the Licensee's Facilities adversely and materially affecting the visual appearance of the Premises, any modification of equipment which places an additional load on the Licensor's electrical system requiring an increase in Licensee's 200 amp service panel size and capacity shall be prohibited until approved in writing by Licensor, and such approval will not be unreasonably withheld, unreasonably conditioned or unreasonably Notwithstanding the forgoing, Licensee shall be entitled to delaved. exchange and replace equipment and antennas within the Premises provided that (i) any new equipment is either not physically or materially greater in size or not visible to the public; or (ii) any antennas are not substantially greater in size than those previously installed.
- C. Licensee shall submit an application to the City of Moreno Valley for a Conditional Use Permit and pay all applicable fees. Subject to the approval of a Conditional Use Permit, Licensee shall construct, maintain and operate said Facilities in accordance with the Conditions of Approval as set forth by the City's CEDD Planning, Building & Safety, Parks & Community Services Departments, and the Fire Prevention Bureau, et al, during the plan review process.
- D. Licensee shall obtain and pay for all building permits and fees as required. City approved temporary fencing shall be placed around the construction site for the duration of construction.
- E. As part of the installation of Licensee's Facilities, Licensee shall have the right to install electrical service, at Licensee's expense, including, but not limited to primary power and installation of an emergency back-up power system for Licensee's Facilities. Subject to Licensor's approval of the location, which approval shall not be unreasonably withheld, Licensee shall have the right to place utilities on (or to bring utilities across) Licensor's Property in order to service the Premises and Licensee's Facilities.

- F. Licensee shall commence and diligently pursue all of the construction and installation work described in this Section 6 so as to fully complete said work within 180 days of the Commencement Date subject to reasonable extension of time due to events of force majeure.
- G. All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner as defined by the prevailing industry standard for public works projects.
- H. The Licensee shall provide and maintain in effect two (2) good and sufficient Surety Bonds for one hundred percent (100%) each, in amounts and form as required by the Licensor. The bonds shall be a "Faithful Performance Bond" which shall guarantee the faithful performance of all work and a "Labor and Materials Payment Bond" which shall secure the payment of the claims of labor, mechanics, or materialmen for all work under the Contract pursuant to Section 3247 of the Civil Code. The Bonds shall be City approved, prior to the issuance of building permits.
- Title to Licensee's Facilities installed or placed on the Premises by Licensee shall be held by Licensee. Licensee has the right to remove all of Licensee's Facilities at its sole expense on or before the expiration or termination of this License, except those portions of Licensee's Facilities which are full integrated into Licensor owned property and ballfield lighting system. It is the intent of the parties that electrical service and lighting for park facilities, including but not limited to park ballfield lighting, shall be a permanent Licensor installation and all electrical service components. panels, conduits, conductors, and shall remain in place upon termination of this License and title to same shall revert to the City of Moreno Valley. Upon termination of this License the Licensor shall have the option to have Licensee's structures and buildings removed at Licensee's sole expense or to have them remain in place. The Licensor will notify the Licensee thirty (30) days prior to the termination or expiration of this License as to the option of leaving or removing the structure. If said buildings and structures are allowed to remain in place title to same shall revert to the City of Moreno Valley. Licensor shall take title to said facilities in their then existing "AS-IS, WHERE-IS" condition, without representation or warranty from Licensee. All of Licensee's communication equipment shall at all times be and remain Licensee's personal property, not be considered fixtures, and in no event shall any part of Licensee's communications equipment be deemed or considered "integrated into Licensor owned property."
- J. Licensor shall provide continuous access to Licensee, Licensee's employees, agents, contractors and subcontractors a designated access route on Exhibit B to the Premises twenty-four (24) hours a day, seven (7) days a week, at no charge to Licensee. Licensor represents and warrants that it has full rights of ingress to and egress from the Premises, and hereby grants such rights to Licensee to the extent required to construct, maintain, install and operate Licensee's Facilities on the Premises.

Licensee's exercise of such rights shall not cause undue inconvenience to the Licensor. Except in the event of an emergency (including equipment failure), Licensee shall provide a minimum of twenty-four (24) hours notice to the Owner and the City Parks Maintenance Division prior to access of the Premises for scheduled routine maintenance and other major work.

- K. For additional access and utility rights beyond those provided to Licensee by Licensor in this License, it shall be the responsibility of Licensee to obtain and pay for all additional easements, rights of entry and all incidentals necessary to Licensee's operations upon the Premises.
- L. Licensor shall maintain an access pathway from a public roadway to the Premises in a manner sufficient to allow access for Licensee's use of the Premises. Licensor shall be responsible for maintaining and repairing such access pathway, at its sole expense, except for any damage caused by Licensee's use of such access pathway; or replace damaged items. If Licensee causes any such damage, Licensee shall promptly repair all damages within ten (10) working days of Licensee's receipt of written notice from the Licensor. If the Licensee fails to make such repair or replacement within ten (10) working days of Licensee's receipt of written notice, the Licensor may cause the work to be done and the costs incurred thereby shall become the liability of the Licensee, and the Licensor shall be reimbursed said cost.
- M. Licensee shall fully and promptly pay for all utilities used by Licensee for the use, operation and maintenance of Licensee's Facilities in the Premises.
- N. Licensor shall be entitled to enter the Premises at any time to inspect Licensee's facilities for compliance with the terms of this License, and with all applicable Federal, state and local governmental regulations.
- O. Licensor retains the right to access the Premises during the term of this License for any purpose that does not interfere with Licensee's use of the Premises as provided herein.

7. Maintenance; Landscaping

- A. Licensee shall be responsible for repairing and maintaining Licensee's Facilities and any other improvements installed by Licensee on the Premises in a proper operating and reasonably safe condition. This shall include the repair of all damage incurred whether natural or man made.
- B. Upon acceptance of the site improvements, Licensor shall be responsible for all graffiti removal and abatement at the Premises. Licensee shall pay a graffiti removal and landscape maintenance fee in the amount of One Hundred Dollars (\$100.00) per month for said service. The abatement and landscape maintenance fee shall be noted as a separate line item.

The graffiti removal and landscape maintenance fee shall increase at a rate of 3% each year, for the remaining term of the License Agreement.

- 8. Interference with Communications.
 - A. Licensee agrees to install equipment of types and frequencies which will not cause interference to the currently existing communications equipment (as configured) of Licensor, Licensor's vendors, or other pre-existing licensees or lessees of the Premises. In the event Licensee's equipment causes such interference, Licensee shall cooperate with Licensor in determining the source and will immediately take all steps necessary to correct and eliminate the interference. If said interference cannot be eliminated within forty-eight (48) hours after receipt of written notice from Licensor to Licensee of the existence of such interference and Licensor has reasonably determined Licensee's equipment to be the source of said interference. Licensee shall discontinue use of the equipment creating said interference. Licensee shall shut down the interfering equipment except for intermittent operation for the purpose of testing after performing any maintenance, repair, modification, replacement or other action for the purpose of correcting such interference. If such interference is not corrected within thirty (30) days after receipt of the aforesaid notice, Licensee shall remove the interfering equipment from the Premises. In the event that the cause of such interference cannot be pinpointed to a particular piece of equipment or system, Licensee shall disconnect the electric power and shut down all of its equipment until such time as the interference problem is corrected. If such interference is not corrected within thirty (30) days after receipt of the aforesaid notice, Licensee shall remove its equipment from the Premises within an additional ten (10) day period. Licensor shall not be liable to Licensee for any interruption of service of Licensee unless caused by Licensor or for interference with the operation of Licensee's equipment unless caused by Licensor.
 - B. Notwithstanding the foregoing, in the event that said interference interferes with Licensor's own equipment as configured and installed as of the installation of a Licensee's equipment and in Licensor's sole and reasonable judgment, said interference jeopardizes the safe operation of Licensor's operations, Licensee will be responsible for eliminating the interference within twenty-four (24) hours, upon becoming aware of such interference. Licensor reserves the right to disconnect power to the interfering equipment if Licensee is unable to eliminate said interference within twenty-four (24) hours of said notification.
 - C. Licensee has satisfied itself and hereby represents and warrants to Licensor that, to the best of Licensee's knowledge, no such interference shall result to the currently existing systems (as configured) of Licensor or other pre-existing licensees or lessees at the Premises. Licensee agrees to indemnify, hold harmless and defend Licensor against any claim or damage, including reasonable attorney's fees, arising out of such interference.

- D. Licensee shall be responsible for performing and providing documentation to the Licensor for all engineering studies to ensure that the placement of its equipment at the Premises will not cause interference with any existing equipment (as configured) placed there by Licensor and/or any other preexisting licensees or lessees.
- E. It is emphasized that the primary use of the Premises is intended to include future and presently unknown Licensor uses, the integrity and security of which shall in no way be compromised by the Licensee. If during the Term of the License, Licensor's present or future operations requires installation of additional telecommunications equipment adjacent to the Premises, Licensor agrees to take all reasonable steps necessary not to affect or interfere with Licensee's right hereunder. If, however, such interference occurs despite the best efforts of both Licensor and Licensee, the Licensor's operational need shall prevail and Licensee shall be required to modify or remove their interfering equipment.
- F. Excepting pre-existing equipment located on the Premises prior to the date of this License, Licensor shall not allow any use of the Property which interferes with Licensee's use of the Premises. If such interference occurs, Licensor shall promptly correct such interference within forty-eight (48) hours of Licensor's receipt of written notice from Licensee.

Taxes.

Licensee shall pay all taxes assessed against Licensee's Facilities. Pursuant to California Revenue and Taxation Code section 107.6, Licensee is notified that the property interest acquired by Licensee in the Premises under this License may be subject to property taxation as a possessory interest in real property, and Licensee may be subject to the payments of property taxes levied on that interest.

10. Termination.

This License shall not be revoked or terminated during the Term or any Renewal Term except as expressly stated in this License. This License may be terminated on thirty (30) days prior written notice as follows:

A. by either party upon a default of any covenant, condition, or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default, provided that if such default is curable, but not curable within such sixty (60) day period, then within such period of time as is reasonably necessary to accomplish such cure (in order to avail itself of this time period in excess of sixty (60) days, the defaulting party must send to the other party, within the sixty (60) day period, a written plan to cure the default, which is reasonably acceptable to the other party, and the defaulting party diligently commences and continues performance of such cure to completion according to the written plan).

- B. by Licensee if it does not obtain or maintain licenses, permits or other approvals necessary to the construction or operation of Licensee's Facilities; however, Licensee shall act with due diligence to obtain and maintain such agreements, licenses, permits, and other approvals;
- C. by Licensee if Licensee is unable to occupy or utilize the Premises due to ruling or directive of the Federal Communications Commission ("FCC") or other governmental or regulatory agency, including, but not limited to, a take back of channels or change in frequencies;
- D. by Licensee if Licensee determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, including without limitation, signal strength or interference; or
- E. by Licensee for any reason or for no reason provided Licensee delivers written notice of termination to Licensor prior to the Commencement Date.
- F. In the event of a termination of this License, by Licensee if Licensee determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, including without limitation, signal strength or interference which occurs at any time within the initial Term of this License, Licensee shall pay to Licensor as consideration of such early termination of fee equal to three (3) months of the then current Rent. Such fee shall be paid within thirty (30) days of the effective date of termination of this License.
- G. In the event of a termination of this License for any cause in any term after the initial five (5) year Term, except default and failure to cure by Licensor, Licensee shall not receive a refund of any rental amounts paid in advance to Licensor.

11. Condemnation.

If a condemning authority takes all of Licensor's Property, or a portion which in Licensee's opinion is sufficient to render the Premises unsuitable for Licensee's use, then this License shall terminate as of the date when possession is delivered to the condemning authority. In any condemnation proceeding each party shall be entitled to make a claim against the condemning authority for just compensation (which for Licensee shall include the value of Licensee's Facilities, prepaid rent, and any other amounts recoverable under condemnation law). Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of its power of eminent domain shall be treated as a taking by a condemning authority.

12. Insurance

- A. Licensee shall maintain in full force and effect, at no expense to Licensor, the following insurance policies:
 - A commercial general liability insurance policy in the minimum amount of five million (\$5,000,000) dollars per occurrence for death, bodily injury, personal injury, or property damage and five million (\$5,000,000) in the aggregate;
 - An automobile liability (owned, non-owned, and hired vehicles) insurance policy in the minimum amount of one million (\$1,000,000) dollars per occurrence;
- B. The insurance coverage required of the Licensee by section 12 shall also meet the following requirements:
 - The insurance shall be primary with respect to any insurance or coverage maintained by Licensor and shall not call upon Licensor insurance or coverage for any contribution.
 - The insurance policies shall include contractual liability and personal injury;
 - 3. The insurance policies shall include the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), its officers, agents, employees, and volunteers, as additionally insureds under the policies; and shall provide coverage for the following:

Solely as respect to work done by or on behalf of the named insured for the City of Moreno Valley, it is agreed that the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), its officers, employees and agents, are added as additional insured under this policy and the coverage provided hereunder shall be primary insurance and not contributing with any other insurance available to the City of Moreno Valley, California, the Community Redevelopment Agency of the City of Moreno Valley, and the Moreno Valley Community Services District, its officers, employees and agents; under any third party liability policy.

It is further agreed that the other insurance provision(s) of the policy are amended to conform therewith

(Note: Form CG 201010 93)

- Licensee shall provide to Licensor's Risk Manager, (a) Certificates of Insurance evidencing the insurance coverage required herein;
- The insurance policies shall provide that the insurance carrier shall not cancel, terminate or otherwise materially modify the terms and conditions of said insurance policies except upon thirty (30) days written notice to Licensor's Risk Manager;
- If the insurance is written on a Claims Made Form, then, following termination of this License, said insurance coverage shall survive for a period of not less than five (5) years;
- The insurance policies shall provide for a retroactive date of the placement of Licensee's Facilities coinciding with the effective date of this License;
- The certificate of insurance shall be approved as to form and sufficiency by the Licensor's Risk Manager and the Licensor Attorney.
- C. If it employs any person, Licensee shall maintain worker's compensation and employer's liability insurance, as required by the State Labor Code and other applicable laws and regulations.

13. Successors and assigns.

Licensee may assign this License at any time subject to amending the Conditional Use Permit, and upon written notice to and approval of Licensor, which approval shall not be unreasonably withheld, conditioned or delayed, provided, however, Licensee shall have the right to sublease or assign its rights under this Licensee without consent of Licensor, (i) to any of its partners, members, subsidiaries, affiliates or successor legal entities, (ii) to any entity acquiring substantially all of the assets of Licensee in the geographic region the Premises are located, or (iii) to any entity in connection with any financing, loan, security interest, pledge, or mortgage of Licensee's property. This License shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties.

- 14. Environmental Indemnification: Hazardous Substances.
 - A. Licensee hereby represents, warrants, covenants and agrees to and with Licensor that all of Licensee's operations or activities upon, or any use or occupancy of the Property by Licensee, or any portion thereof, by Licensee, shall be in all respects in compliance with all state, federal and local laws and regulations governing or in any way relating to the generation. handling. manufacturing, treatment, storage, use.

transportation, spillage, leakage, dumping, discharge, or disposal (whether legal or illegal, accidental or intentional) of any Hazardous Substance (as defined below).

B. If any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the "Remedial Work") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity due to any Hazardous Substances brought on to or generated on the Property by Licensee, Licensee shall perform or cause to be performed the Remedial Work in compliance with such law, regulation, or order. All costs and expenses of such Remedial Work shall be paid by Licensee including, without limitation, all charges of Licensee's contractors, consultants and engineers and Licensor's reasonable attorney, architect's and/or consultant's fees and costs incurred in connection with monitoring or review of such Remedial Work. In the event Licensee shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Licensor may, but shall not be required to, cause such Remedial Work to be performed, and all reasonable costs and expenses thereof, or incurred in connection therewith, shall be reimbursed to Licensor.

C. "Hazardous Substances" shall include without limitation:

- 1. Those substances included within the definitions of "hazardous substances," "hazardous materials," toxic substances," or "solid waste" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) ("CERCLA"), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499 100 Stat. 1613) ("SARA"), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.) ("RCRA"), and the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., and in the regulations promulgated pursuant to said laws, all as may be amended from time to time:
- Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 30, and as may be amended from time to time);
- 3. Any material, waste or substance which is petroleum, asbestos, polychlorinated biphenyls, designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317); or radioactive materials; and such other substances, materials, and wastes which are or become regulated as hazardous or toxic under applicable local, state, or

federal law, or the United States government, or which are classified as hazardous or toxic under federal, state, or local laws or regulations.

4. Licensor and Licensee hereby confirm and agree that Licensee shall have no responsibility for any Hazardous Materials or Hazardous Substances which may exist in, on or under the Property or the Premises (i) prior to the Commencement Date, or (ii) after the Commencement Date, which may have been brought on to or generated on the Property by parties other than Licensee.

15. Indemnity and Mutual Release.

Licensor and Licensee each indemnifies the other against and holds the other harmless from any and all costs (including reasonable attorney's fees) and claims of liability or loss to the extent arising from the ownership, use and/or occupancy of the Licensor's Property or Premises by the indemnifying party. This indemnity does not apply to any claims arising from the negligence or intentional misconduct of the indemnified party, breach of this License by the indemnified party, or violation of law by the indemnified party. The indemnity obligations under this Section will survive the termination of this License.

16. Attorneys' fees; Litigation costs.

- A. If any action at law or in equity is brought to recover any Rent or other sums under this License, or for or on account of any breach of or to enforce or interpret any of the covenants, terms, or conditions of this License, or for the recovery of the possession of the Premises, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled to the extent award by a court of law.
- B. Whenever provision is made in this License for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action.
- C. Any award of damages following judicial remedy or arbitration as a result of the breach of this License or any of its provisions shall include an award of prejudgment interest from the date of the breach at the lesser of (i) the maximum amount of interest allowed by law or (ii) Ten Percent (10%).

17. Waiver of Incidental and Consequential Damages.

Neither party will assert any claim whatsoever against the other party for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred as a result of the construction, installation, operation,

maintenance, or replacement of personal property owned by either party, or Licensor's or Licensee's use of the Premises or Licensor's Property, including any and all losses incurred as a result of Licensor's or Licensee's actions or defaults.

18. Miscellaneous.

- A. Severability. If any provision of the License is invalid or unenforceable with respect to any party, the remainder of this License or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this License shall be valid and enforceable to the fullest extend permitted by law.
- B. Notices. Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight mail to the address of the respective parties set forth below:

City:

City Manager
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805

A copy to be sent to:

City Engineer
Department of Public Works
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805

Licensee:

Cingular Wireless Attn: Network Real Estate Administration 6100 Atlantic Boulevard Norcross, Georgia 30071

Re: Cell Site: RS0029-01 Site Name: Weston

With a copy concurrently to:

Cingular Wireless Attn: Legal Department 5601 Legacy Drive, Bldg. A MS: A-3 Plano, Texas, 75024

Re: Cell Site:RS0029-01

Site Name: Weston

- C. Choice of Law. This License shall be governed under the laws of the State of California and applicable Federal law.
- D. Survival of Terms. Terms and conditions of this License which by their sense and context survive the termination, cancellation or expiration of this License will so survive.
- E. Entire Agreement. The terms of this License (including the Exhibits, all of which are hereby incorporated by reference) are intended by the parties as the final expression of their agreement with respect to such terms. The

parties further intend that this License constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any proceeding, involving this License. The language in all parts of this License will in all cases be construed as a whole and in accordance with its fair meaning and not construed for or against either party.

- F. Amendments and Modifications. No amendments, modification or supplement, including those by custom, usage of trade, or course of dealing, of any provisions of this License shall be binding on any of the parties unless it is in writing and signed by the parties in interest at the time of the modification. No oral order, objection, claim, or notice by either party to the other shall affect or modify any of the terms or obligations contained in the License.
- G. Venue. At Licensor's option, any action by any party to this License shall be brought in the appropriate court of competent jurisdiction within the County of Riverside, notwithstanding any other provision of law which may provide that such action may be brought in some other location.
- H. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this License by the other party, or the failure by a party to exercise its rights upon the default of the other party shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this License thereafter.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Telecommunications License Agreement as of the date and year signed by Licensor.

Licensor:

Licensee:

City of Moreno Valley

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

BY:

Mayor

DATE:

Site Development Manager (Provident or Vice President)

BY:

TITLE:

TITLE:

(Corporate Secretary)

APPROVED AS TO LEGAL FORM:

City Attorney

DATE: 7 Muss 300

Enclosures: Exhibit "A" - Legal Description of City's Property

Exhibit "B" - Description of Premises, Licensee's Facilities,

Incorporation of Plans by Reference

Exhibit "C" - Conditional Use Permit and Conditions of Approval

EXHIBIT A

LEGAL DESCRIPTION OF CITY'S PROPERTY

Licensor's Property of which Premises are a part is legally described as follows:

The land referred to herein is situated in the State of County of Riverside, described as follows: Those portions of Lots 4 and 5 in Block 66 and that portion Dracaea Avenue, as shown by Map No. 1 of Bear Valley and Alessandro Development Company on file in Book 11 of Maps, Page 10 thereof, Records of San Bernardino County, California, more particularly described as follows: Commencing at the intersection of the centerline of said Dracaea Avenue with the center line of Lasselle Street as shown on said map; Thence North 00° 00' 10" East along said centerline of Lasselle Street, a distance of 55.00 feet to a point therein; Thence South 89° 59' 50" East, a distance of 50.00 feet for True Point of Beginning, said point being in a line parallel with and distant 50.00 feet Easterly, measured at a right angle, from said centerline of Lasselle Street; Thence North 00° 00' 10" East along said parallel line, a distance of 577.00 feet to a point therein. Thence North 42° 37' 01" East, a distance of 33.97 feet to point in a non tangent curve, concave to the Northwest, having a radius of 328.00 feet, the radial line at said point bears South 00° 00' 10" West: Thence Northeasterly along said curve, to the left, through central angle of 14° 15' 48", an arc distance of 81.65 feet to the end thereof; Thence North 75° 44' 22" East, a distance of 16.04 feet; Thence South 60° 42' 07" East, a distance of 20.67 feet to

point in a nontangent curve, concave to the Northeast, having a

radius of 840.00 feet, the radial line at said point bears South 72° 51' 24" West;

Thence Southeasterly along said curve, to the left, through a

central angle of 23° 47' 19", an arc distance of 348.76 feet to

a point of reverse curvature with a curve, concave to the Southwest, having a radius of 272.00 feet, the radial line at

said point bears South 49° 04' 05" West;

Thence Southeasterly along said last mentioned curve, to the right, through a central angle of 40° 55' 55", an arc distance

of 194.32 feet to the end thereof;

Thence South, a distance of 135.00 feet;

Thence South 45° 00' 00" West, a distance of 21.21 feet to $^{\rm 2}$

point in a line parallel with and Northerly 30.00 feet, measured

at a right angle, from said centerline of Dracaea Avenue; Thence West along said parallel line, a distance of 334.00 feet;

Thence North 42° 36' 30" West, a distance of 33.97 feet to the

true point of beginning.

End of Legal Description

EXHIBIT B

1. Description of Premises

PLANS TO BE INCORPORATED IN SIGNATURE AGREEMENT

- 2. Licensee's Facilities
- 3. Incorporation of Plans by Reference

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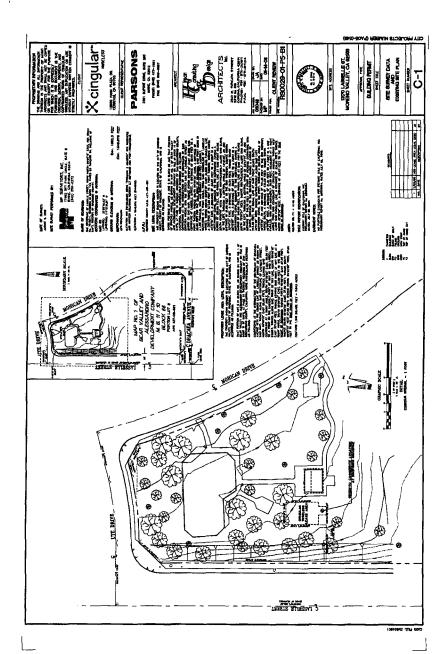
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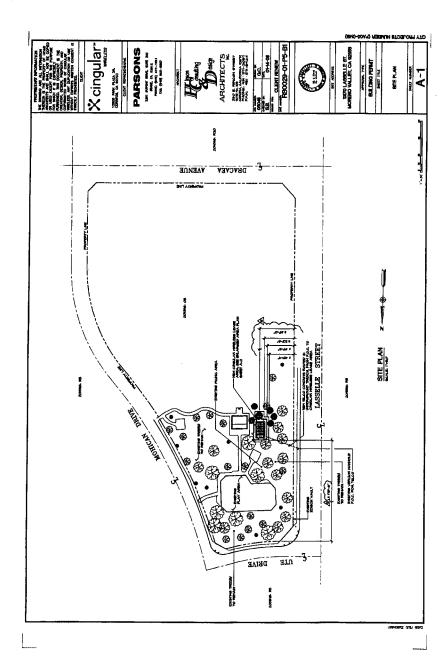
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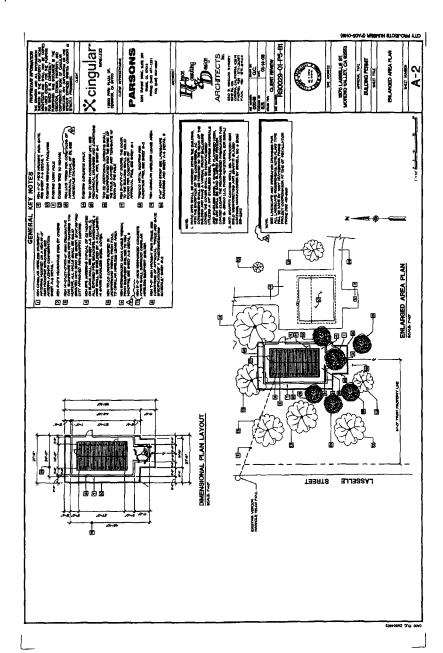
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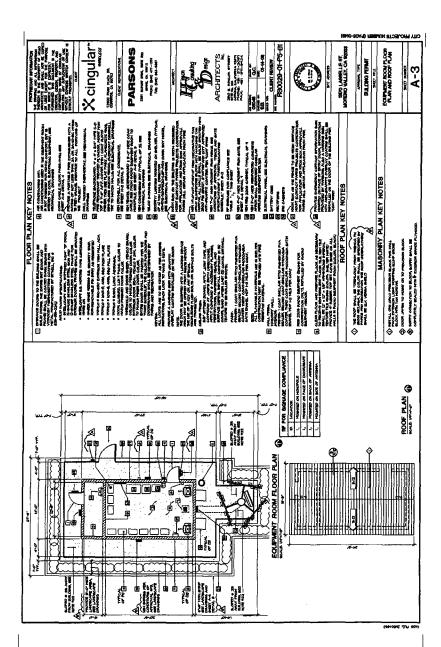
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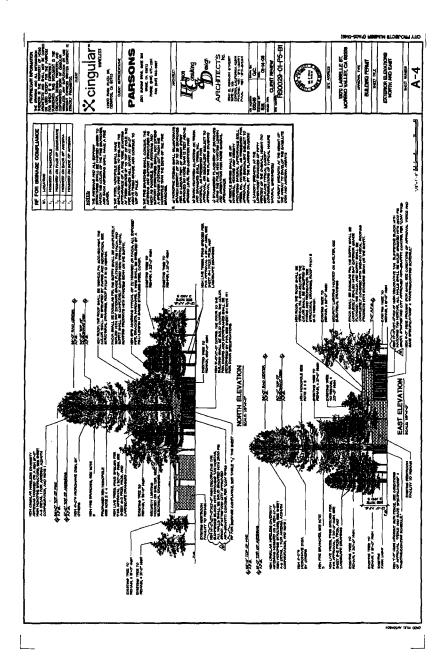
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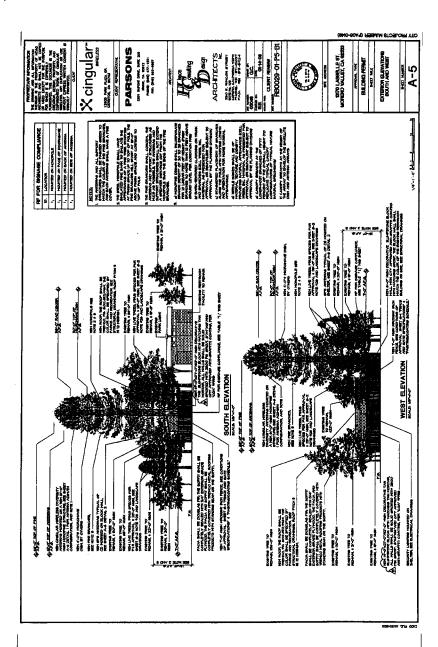


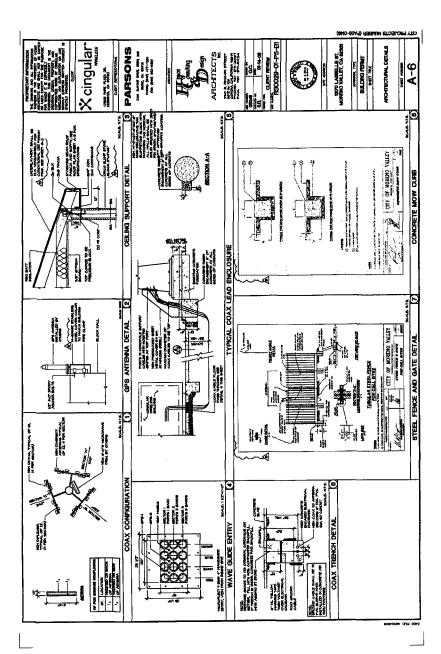


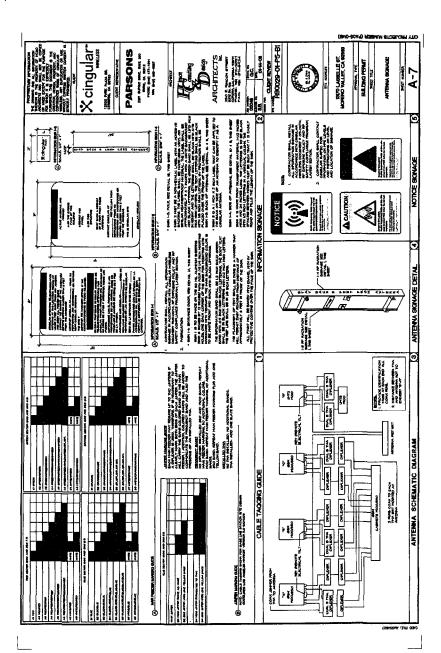


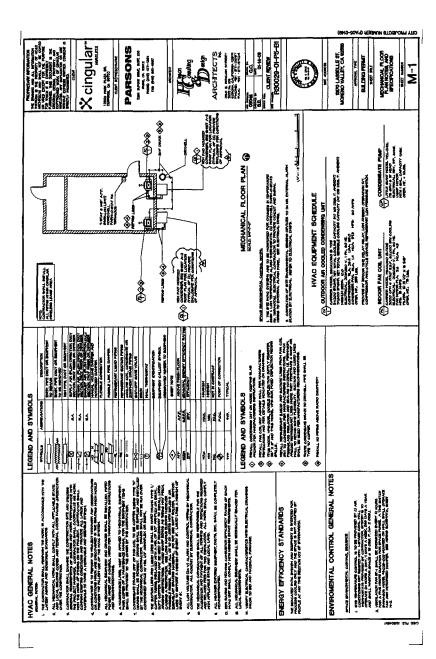


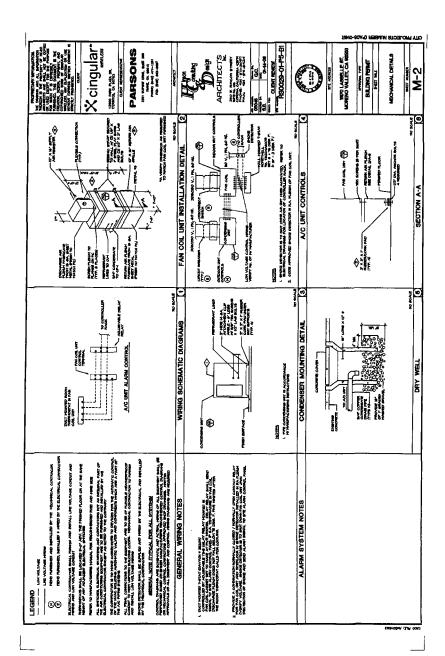






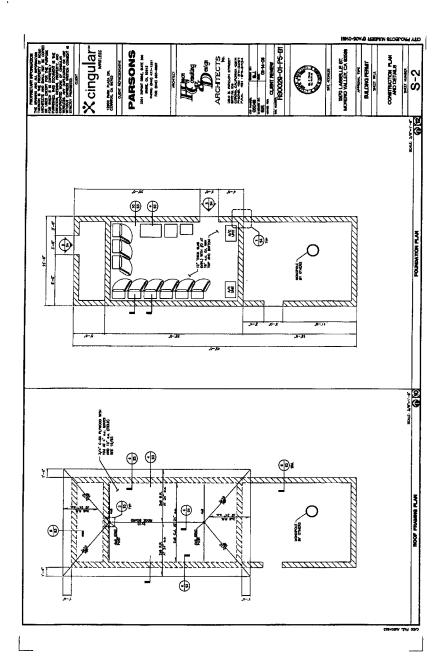


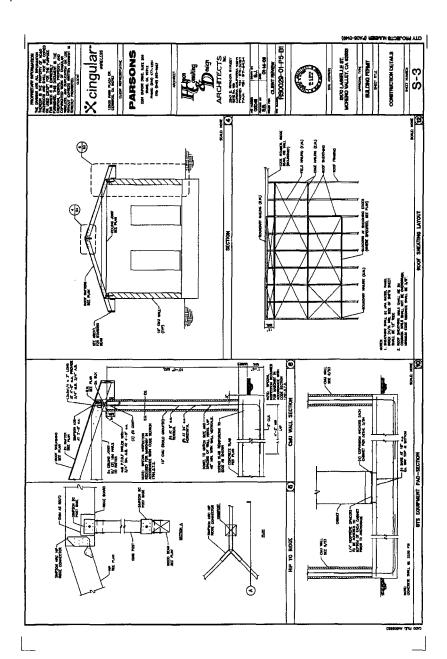


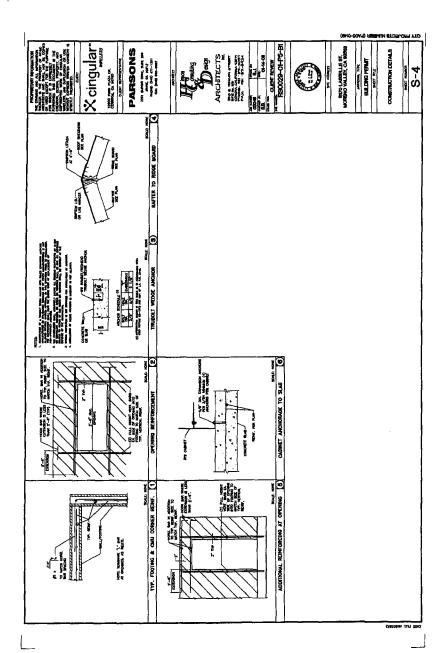


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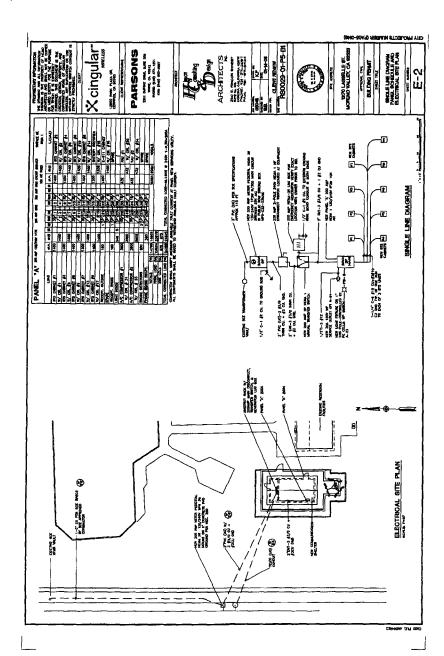
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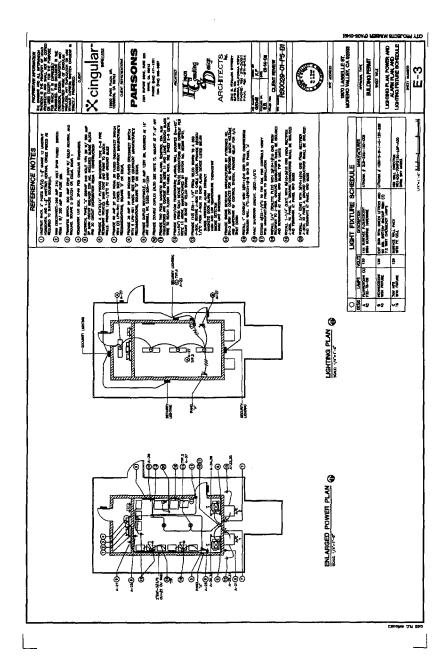


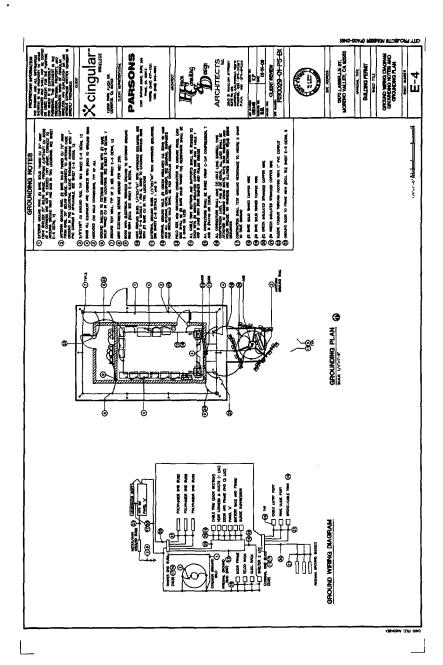


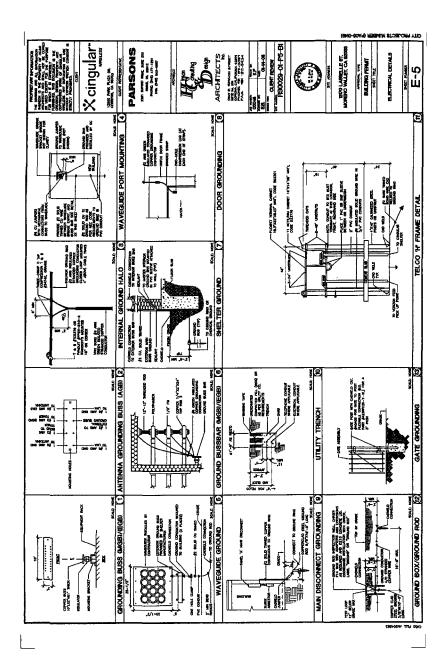


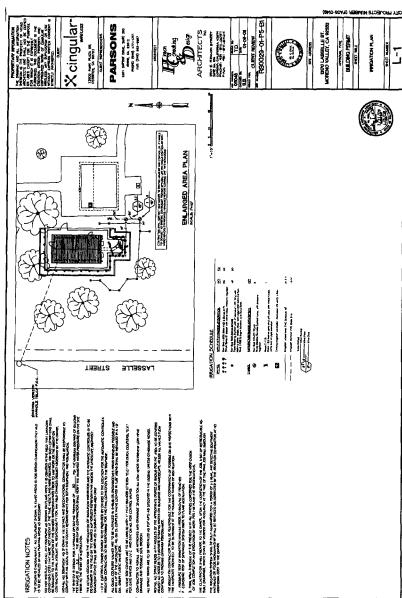
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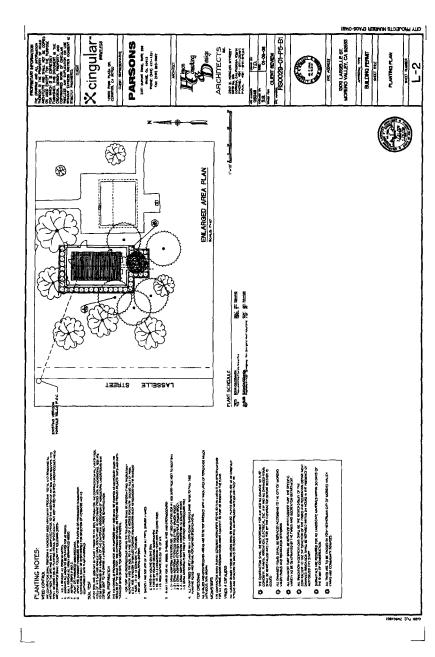












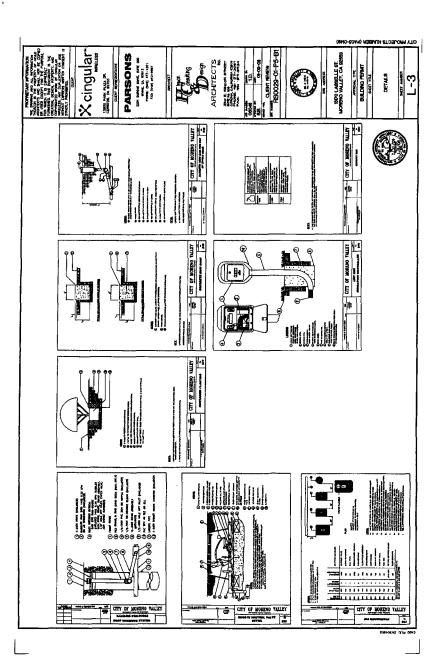


EXHIBIT "C"

Conditional Use Permit and Conditions of Approval



Community Development Department Planning Division

14177 Frederick Street P.O. Box 88005 Moreno Valley, CA 92552-0805 Telephone: 951.413.3206 FAX: 951.413.3210

December 1, 2006

Ryan Elias-Berg Parsons 2201 Dupont Drive, Suite 200 Irvine, CA 92612

Subject:

Final Conditions of Approval for PA05-0149 -Conditional Use Permit Location: Weston Park, on the east side of Lasselle Street between

Dracaea Avenue and Ute Drive

Dear Mr. Elias-Berg:

Enclosed are the Final Conditions of Approval for PA05-0149, a conditional use permit for a new unmanned telecommunications facility for Cingular Wireless.

The Planning Commission of the City of Moreno Valley approved this project on November 30, 2006, subject to the enclosed conditions of approval. This approval is final unless an appeal is filed with the City Council within 10 calendar days of the approval date. If an appeal is not filed, this conditionally-approved conditional use permit will expire on November 30, 2009, unless extended as provided by City Ordinance.

If you have any questions, contact the Planning Division at (909) 413-3206.

Sincerely.

Kathleen Dale Associate Planner John C. Terell, AICP Planning Official

Enclosure: Final Conditions of Approval for PA05-0149 (Conditional Use Permit)

c: Cingular Wireless

Tony Hetherman, City of Moreno Valley parks and Recreation

Case file

CITY OF MORENO VALLEY PLANNING DIVISION

EXHIBIT A TO RESOLUTION 2006-60

FINAL CONDITIONS OF APPROVAL FOR PA05-0149 CONDITIONAL USE PERMIT FOR A WIRELESS COMMUNICATIONS FACILITY ASSESSOR'S PARCEL NUMBER: 477-451-001

APPROVAL DATE: EXPIRATION DATE: November 30, 2006 November 30, 2009

This set of conditions shall include conditions from:

- Planning (P), including Building and Safety (B)
- Fire Prevention Bureau (F)
- Parks & Recreation (PR)

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

- P1. Conditional Use Permit PA05-0149 is for a new telecommunications facility to be located within Weston Park along the Lasselle Street frontage, west of the existing restroom building and south of the existing playground and picnic area. The proposed tower is 66 feet in height and will be disguised as a pine tree. The unmanned equipment shelter and tower will be located within an approximately 1,250 square foot lease area.
- P2. All ground-mounted equipment must be within an enclosed building or screened from the public right-of-way with a solid 6-foot decorative block wall.
- P3. Perimeter planting of shrubs shall be provided where the proposed improvements are visible from Lasselle Street.

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R - Map Recordation

GP - Grading Permits WP - Water Improvement Plans BP - Building Permits CO - Certificate of Occupancy or building final

P - Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP - General Plan Ord - Ordinance Res - Resolution

MC - Municipal Code DG - Design Guidelines UBC - Uniform Fire Code CEQA - California Environmental Quality Act Ldscp - Landscape Requirements

UBC - Uniform Building Code

SBM - Subdivision Map Act

PLANNING DIVISION FINAL CONDITIONS OF APPROVAL FOR PA05-0149 CONDITIONAL USE PERMIT - WESTON PARK MONOPINE PAGE 2 OF 11

- P3. All utility and coaxial connections to the equipment building and to the monopine shall be underground.
- P4. Monopine design shall incorporate:
 - a. branch density of 20 to 25 branches per 10 linear feet of height (first branches no more than 12 feet above ground level per Condition PR3);
 - b. bark-textured cladding on trunk and branches (Cell Trees, Inc. material as presented for approval, or equivalent subject to approval by the Planning Division):
 - staggered placement of branches along the pole, with varying length and orientation for more natural appearance;
 - d. needle bushes shall be of material, texture and density providing natural appearance (Cell Trees, Inc. material as presented for approval, or equivalent subject to approval by the Planning Division);
 - canopy breadth at the lower-most branches of fifty percent of the overall height (to replicate typical canopy configurations of typical mature natural specimens);
 - f. canopy breadth at the height of the array to envelope the satellite dish and antenna arrays.
- P5. The physical appearance of the stealth materials shall be maintained, for the duration of facility operation, in accordance with the approved plans.
- P6. There shall be no signage or graphics affixed to the equipment, equipment building, or fence, except for public safety warnings.
- P7. The facility shall provide for co-location of other equipment/utilities with review and approval by the Community Development Director. The design of any co-location shall be consistent with the conditions of approval for this installation.
- P8. No barbed wire or razor wire shall be used for the facility.
- P9. At such time as the facility ceases to operate, the tower shall be removed. The removal shall occur within 90 days of cessation of the use.
- P10. (BP) Prior to the issuance of building permits, final landscaping and irrigation plans shall be submitted to the Community Development Department-Planning Division for review and approval. The plans shall be prepared in accordance with the City's Landscape Regulrements (MC 9.17).

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- P11. This Conditional Use Permit may be revoked in accordance with provisions of the Municipal Code. (MC 9.02.260)
- P12. This approval shall comply with all applicable requirements of the City of Moreno Valley Municipal Code.
- P13. This approval shall expire three (3) years after the approval date of Conditional Use Permit PA05-0149, unless used or extended as provided for by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever. "Use" means the beginning of substantial construction contemplated by this approval within the three-year period, which is thereafter pursued to completion, or the beginning of substantial utilization contemplated by this approval. (MC 9.02.230)
- P14. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)
- P15. The site shall be developed in accordance with the approved plans on file in the Community Development Department Planning Division, the Municipal Code regulations, the Landscape Requirements, the General Plan, and the conditions contained herein. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the City Planning Official or designee.
- P16. (BP) Prior to issuance of building permits, the applicant shall obtain a Land Use Clearance stamp from the Community Development Department – Planning Division on the final plan check set.
- P17. (CO) Prior to issuance of a building final, the applicant shall contact the Planning Division for a final inspection.

Building and Safety Division

B1. This project shall comply with the current California Codes. (CBC, CEC, CMC and the CPC) as well as City ordinances. All new projects shall provide a solls report as well. Plans shall be submitted to the Building and Safety Division under separate submittal. PLANNING DIVISION
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FIRE PREVENTION BUREAU

Standard Conditions:

With respect to the conditions of approval for PA05-0149, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

F1. Final fire and life safety conditions will be addressed when the Fire Prevention Bureau reviews building plans. These conditions will be based on occupancy and use and Uniform Building Code (UBC), California Fire Code (CFC), and related codes which are in force at the time of building plan submittal.

Special Conditions:

- F2. (BP) Prior to issuance of building permit, applicant shall provide written verification that the system they will be installing will not interfere with Fire or Police Communication System.
- F3. Anytime after installation, any interruption of Fire, Police or other public emergency Communication System due to the purveyor's system, the purveyor shall cease to operate site until corrections can be made to purveyor's system.
- F4. All combustible vegetation, cut or uncut weeds, grass, vines and other vegetation shall be kept clear within thirty feet of all structures, fences and property lines. (CFC 1103.2.4)
- F5. (CO) Prior to the issuance of a Certificate of Occupancy or building final, the developer/applicant shall be responsible for obtaining permits for the storage of combustible liquids, flammable liquids or any other hazardous materials from both the County Health department and Fire Prevention Bureau. (CFC 7901.2 and 8001.3)

PARKS AND RECREATION DEPARTMENT

PR1. All equipment utilized for Telecommunications equipment shall be reviewed and approved by Parks and Recreation, Planning, Land Development, Fire Services, and Building and Safety Division prior to approval and issuance of any permits. Parks and Recreation requires submittals on all materials and shop drawings on all fabrication, prior to obtaining these products. Add materials shall comply with the

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Parks and Recreation Park Specifications, Telecommunication Site Specifications, City Standard Plans, California Building Code, and "Greenbook" for Public Works Construction.

- PR2. At the end of the agreed upon lease or lease termination from applicant, abandonment, or violation of contract, the Licensee may be required by the City or CSD to restore the site to its original condition or any part of. If required, the Licensee shall remove the items at no cost to the City.
- PR3. At the discretion of Parks and Recreation, a Mono Pine shall be utilized to transmit/receive signal. The mono pine shall be conical shaped; branches layered beginning at 12' maximum, and contain a trunk that closely resembles bark that is typical of pine trees. Within any single-family residential district, all commercial communication facility antenna(s) and supporting tower systems shall be setback from any property line a distance that is not less than the height of the antenna and tower system and not less than any setback required by any applicable fire and building codes. The Mono Pine will require a tubular steel fence around the Mono Pine, per Parks and Recreation standards. The Mono Pine will be integrated with other trees and shall not be located within a structure or fenced area by Itself.
- PR4. The lease area shall not extend beyond the covered building's edge, plus six-feet for sidewalk and fencing. The building shall not be any larger that what is necessary to house the telecommunications equipment and a permanent mounted generator.
- PR5. Temporary fencing shall be provided around the project site. It shall be six-foot in height, conform to Parks and Recreation standards, and approved by the Parks Projects Coordinator.
- PR6. The design shall contain all conduit and conductors within the interior of the pole (no exposed exterior conduit or wire will be allowed). The pole and conduit shall be designed for future expansion of panels. Two (2) additional conduits shall be incorporated into the base of the pole, capped and terminate 10' south of the pole.
- PR7. HVAC units shall be mounted within the building, with the exception of the condensers. AC condensers shall be mounted to the rear of the building and have a vandal proof enclosure cover. The cover shall be manufactured utilizing a 1/4" stainless steel framing materials and stainless steel 9 gauge, 3/4" flattened mesh. The unit shall be sand blasted and powder coated clear.
- PR8. Any proposed step down transformer is to be located in the building and have proper ventilation.

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- PR9. Any telephone landline service shall be located within the building. A separate entrance and walled space is necessary.
- PR10. If a generator shall be utilized, it shall be of an approved quite type and located within the building, the building sound insulated, and properly ventilated. No temporary generator shall be located within the park anytime.
- PR11. Other than approved pole mounted transmitting/receiving devices, no other equipment shall be located outside of the building.
- PR12. Antenna mounted to the building shall have all exposed pipe, brackets, hardware, and wire shielded by a full-length 14-gauge stainless steel cover.
- PR13. The building shall be constructed of decorative tan slumpstone block with matching tan mortar. All walls shall be solid grouted with 2500 PSI grout. The block size shall be nominal 8" x 4" x 16".
- PR14. Special inspections are required on all concrete, masonry, and roofing. These inspections shall be provided by a 'City Approved' inspector, at no cost to the City.
- PR15. The roof type shall be Tremlock SL® from Tremco, ph 800.452.9969. The color shall be specified by Parks and Recreation. The roof design shall be designed by Tremco. The underlayment shall be one layer of VersaShield® and one layer of 30 lb. felt. The fascia shall be Douglas fir; the soffit shall be completely sealed with 1/2" exterior grade plywood. The fascia and soffit shall be completely covered with Tremco metal roofing products with standing seam on the soffit. Roof pitch designs shall be minimum 5 in 12.
- PR16. Entrance doors to the building shall be solid doors. Specifications are as follow:
 - a. Steelcraft steel stiffened 1-3/4" 'B' door, 12-gauge stainless steel skin and 12-gauge stainless steel frame for exterior doors. Frames shall be grouted.
 - b. Steelcraft S.S. mortise type continuous hinge or
 - Hager Hinge # BB1168 S.S., security stud, non-removable pin (nrp) as requested.
 - d. Trimco # 1111C-630 exterior trim pull, ADA.
 - e. Trimco # 1001-3, 4x16, 630 push plate.
 - f. Trimco # 1010-3, 4x16, 630 pull plate.
 - g. Trimco # 5000, lock astragal.
 - h. Door closure: LCN # P4041. Color to match finished door color.
 - i. Threshold and door sweep: Pemco brand. Color to match finished door color.
 - i. Exterior door seal: Pemco # 299. Color to match finished door color.

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- k. Entire door shall be painted per the 'Paint Schedule'. The color for doors and doorframes shall be determined by Parks and Recreation.
- PR17. A warning sign shall with anti-graffiti overlay coating shall be installed on the door of the building.
- PR18. All buildings shall be coated with an anti-graffiti coating. The specification shall be Vitrocem High Build Anti-Graffiti Glazed Coating, manufactured by Bithell, Inc @ 626.331.2292. Pigmented coatings are available for all metalwork and lumber. Block shall receive a clear Vitrocem® graffiti coating.
- PR19. All ventilation shall be constructed from 12-gauge stainless steel.
- PR20. All exposed lumber shall be #1 resawn Douglas fir with cracks less than 1/32" and no heartwood.
- PR21. All electrical conduit within the building and exterior of the building shall be rigid type (no PVC, no flexible). Conductors shall be a minimum of 12-gauge.
- PR22. Security lights shall be provided on the exterior of the building and be an approved type per the Park and Recreation Park Specifications guide.
- PR23. If a path of access to the building is needed, the applicant shall be required to design and build access if suitable access does not exist at the site. Required travel is typically a six-inch thick steel reinforced (#4 rebar @ 18" OC) concrete (560C-3250 PSI) path. Parks and Recreation retain the right to change this specification depending on the specification application. Access shall comply with Title 24/ADA.
- PR24. A 6' wide reinforced concrete apron shall surround the building. The apron shall be 4" thick and sloped with drainage away from the building. Color shall be Davis Colors Omaha Tan. Deep scoring joints at a minimum of every 6'. All concrete shall be 560C-3250 per the 'Greenbook'. A rock pump may be utilized. Fly ash and admixtures are not allowed, except color as specified by Parks and Recreation. A tubular steel fence is to be constructed on the outside perimeter of project per the Fence and Gate Specification. The fence shall be located within the concrete apron, with a one-foot setback from the edge of concrete.
- PR25. Five (5) Pinus Pinea, Pinus Canariensis, Pinus Eldarica (or another P&R approved Pinus species to match the Monopine) with a minimum height of 25' shall be installed around the Monopine. The soil shall be properly prepared for planting per City standards. The pines as well as the rest of the project shall be warranted for 1-year from project acceptance.

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- PR26. Irrigation for the shrubs and trees is to be installed from the main irrigation line. This is to be complete with a Nibco T-585-70-66 isolation ball valve, Leit® XRC solar irrigation controller with radio remote capability and handheld remote control unit, Lema® 1521S actuator, Rainbird EFB-CP-PRS-D irrigation control valve, Schedule 40 PVC pipe, Rainbird 1806/1812-SAM-PRS irrigation sprinklers, and Rainbird RWS tree irrigators. A detailed specification and design shall be provided by the Licensee before project approval. A C-27 licensed Landscape Contractor shall perform all landscaping and irrigation.
- PR27. Current irrigation located within and surrounding the project shall be relocated to provide irrigation to the existing turf. Additional irrigation sprinklers shall be added per the requirements of Parks and Recreation. A licensed landscape contractor (C-27) shall perform all landscaping and irrigation work.
- PR28. The contractor is responsible for any and all damage to turf, concrete, plants, irrigation, electrical, etc. Any and all damaged items shall be reinstalled and paid for by the contractor before a release is issued. All damaged items shall be replaced according to Parks and Recreation standards. All irrigation modifications shall be the responsibility of the contractor, to the satisfaction of Parks and Recreation. Damaged irrigation shall be repaired within 24-hours in the presence of authorized City staff. City staff time shall be charged to the licensee/contractor and paid prior to the project Final. Failure to repair within this period may result in penalties, including work stoppage, and the City contracting for such repairs. In the event the City contracts for repairs, the licensee/contractor shall reimburse the City for repairs and staff time prior to the project Final.
- PR29. Damaged turf shall be replaced with sodded turf by the Licensee. The specific variety to be determined by Parks and Recreation.
- PR30. All permits are the responsibility of the Licensee. All inspections are the responsibility of the contractor and/or Licensee.
- PR31. A preconstruction meeting for the project is required. The preconstruction meeting shall be scheduled with Parks and Recreation at 951.413.3701, 10 days in advance of mobilization. The general contractor and all subcontractors shall be present at the preconstruction meeting.
- PR32. Inspections are required on all phases of the project. 48-hour inspection requests shall be made with Parks and Recreation at 951.413-3163. Contact Building and

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Safety for a schedule and notification requirements at 951.413.3350. Failure to schedule inspections will result in a stop work order and monetary penalty(s).

- PR33. All changes/deviations shall be approved in writing from the Director of Parks and Recreation or his designee, prior to construction.
- PR34. Security for the project shall be posted by the Licensee, prior to the issuance of building permits.
- PR35. The Licensee shall have an approved and signed Telecommunications License Agreement prior to the issuance of Building Permits.
- PR36. All permits and fees are the responsibility of the Licensee.
- PR37. All Parks and Recreation Plan Checking and Inspection Fees shall be paid prior to the issuance of Building Permits.
- PR38. Turnover items: Three complete sets of As-Built plans, one As-Built Mylar, and the project ACAD drawing on CD prior to Final inspection.

SPECIFICATIONS

Fence and Gate Specifications:

- a. 3" X 3" X Schedule 40 posts. Set at 8' spacing (approximate).
- b. 2" x 2" x .120" top and bottom rail.
- c. 1" x 1" x .120" pickets with 1' angled extension @ 22° (squared and capped ends). Spacing not to exceed 4" between pickets.
- d. All welding shall be complete on all sides of the metal and all slag removed.
- The gate shall have an industrial strength locking devise, capable of utilizing two (2) padlocks for access by City and applicant.
- f. The finished fence and gate is to be 7' in height (6' fence with 1' angled outward 22°).
- g. All line posts shall have footings 12" diameter x 24" deep minimum. All end and gateposts shall be 12" x 36" deep. Concrete for footings shall be minimum 2500-PSI.
- h. A City approved Knox Box model # 3261 shall be welded to a 3/16" steel backing plate and installed on the gatepost. Knox Box application is available from City of Moreno Valley Fire Prevention Bureau or Parks and Recreation.
- All posts, rails, pickets, and related hardware to be hot dip galvanized after fabrication and coated after installation. See 'Paint Schedule.'

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Paint/Coatings Schedule:

- a. Coating specification for wood surfaces shall be two-coats of Behr® Russet Brown semi-gloss over one-coat exterior primer, unless indicated otherwise by Parks and Recreation. All paint shall be coated with Vitrocem® Hi-Build Thermosetting Anti-Graffiti Glazed Coating, manufactured by Bithell, Inc., at 626.331.2292
- b. Coating specification for metal surfaces shall be gloss dark brown for building doors, trim, and any other exterior metal, unless indicated otherwise by Parks and Recreation. All coatings shall be Vitrocem® Color Pigmented Thermosetting Coating for Metal, manufactured by Bithell, Inc at 626.331.2292.
- c. Coating specification for tubular steel fencing shall be black for tubular steel fencing, unless indicated otherwise by Parks and Recreation. All coatings shall be Vitrocem® Color Pigmented Thermosetting Coating for Metal, manufactured by Bithell, Inc., at 626.331.2292.

PROTECTIVE COATINGS APPLICATION AND WORKMANSHIP:

- A. All surfaces not to be coated shall be protected during cleaning and coating operations. Any surfaces or material (columns, walkways, plants, etc.) that are damaged during the cleaning and/or coating operations shall be repaired or replaced at the contractor's expense.
- All surfaces shall be cleaned, de-glossed, and prepped to the paint manufacturer's specifications.
- C. All materials shall be applied uniformly by electrostatic coating (unless approved by the Parks Projects Coordinator in writing). If any thinning of the coating is necessary, it shall be done in accordance with the manufacturer's label directions. Paint additives are prohibited unless specified and approved by the coating manufacturer.
- D. Mechanical mixers, capable of thoroughly mixing the pigment with the paint shall be used according to the manufacturer's instructions. After thorough initial mechanical mixing, subsequent intermittent hand mixing shall be done in accordance with good coating practices and the manufacturer's recommendations.
- E. No exterior coating shall be undertaken if air or surface temperature is below 50 degrees Fahrenheit, nor immediately preceding or following rain; or until frost, dew,

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- or condensation has evaporated. Additionally, no exterior coating shall be performed if air or surface temperature is above 95 degrees Fahrenheit or if winds exceed 5 mph.
- F. Refer to the manufacturer's data sheet and comply with the requirements regarding application such as mixing of the components, thinning, and application equipment.
- G. When surface temperatures are high, care must be taken while applying the paint to prevent formation of voids, pinholes, and bubbles due to the rapid evaporation of solvent.
- H. If more than one day passes between subsequent coats, contaminated areas must be further prepared by brush-off blast, water blasting, or steam cleaning.