

RESOLUTION NO. 2013- 108

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A NON-EXCLUSIVE COMMUNICATIONS TOWER LEASE AGREEMENT, ALONG WITH THE PROVISIONS OF A MEMORANDUM OF LEASE WITH NEW CINGULAR WIRELESS PCS, LLC/AT&T MOBILITY LLC, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE LEASE AGREEMENT AND MEMORANDUM ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, St. Johns County ("County") has completed development of, and currently operates, an interoperable communications system for use by local, state and federal public safety agencies providing law enforcement, firefighting services, ambulance services, emergency medical services, emergency management and other emergency services; and

WHEREAS, and the communications tower located at 9685 Light Avenue, Hastings, Florida 32145 ("Premises") is an integral component of the interoperable communication system; and

WHEREAS, New Cingular Wireless PCS LLC/AT&T Mobility LLC ("AT&T") has contacted the County seeking to enter into an agreement to collocate onto the tower to provide enhanced wireless communications service in the surrounding area; and

WHEREAS, subject to the material terms and conditions of the proposed Non-Exclusive Communications Tower Lease Agreement ("Lease Agreement"), and in accordance with the provisions of the Memorandum of Lease ("MOL"), each attached hereto and each incorporated herein, the County desires to grant AT&T a lease to collocate onto the tower and to provide the wireless communications service described therein; and

WHEREAS, entering into the proposed Lease agreement serves the best interests of the citizens of the County.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

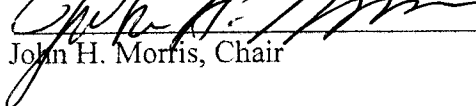
Section 2. The Board of County Commissioners hereby approves the material terms and conditions of the Lease Agreement and the provisions of the MOL. The Board of County Commissioners also authorizes the County Administrator, or designee, to execute a Lease Agreement and an MOL in substantially the same form and format as attached hereto.

Section 3. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

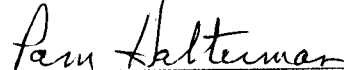
Section 4. The Clerk is instructed to file the original Communication Tower Lease Agreement in the Clerk's Office and to record the Memorandum of Lease in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 7 day of May, 2013.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
John H. Morris, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 5/9/13





Attachment to Resolution

ST. JOHNS COUNTY NON-EXCLUSIVE COMMUNICATIONS TOWER LEASE AGREEMENT

THIS COMMUNICATIONS TOWER LEASE AGREEMENT ("Lease Agreement"), dated {insert Effective Date}, is made by and between St. Johns County, a political subdivision of the State of Florida, having administrative offices located at 500 San Sebastian View, St. Augustine, Florida 32083 ("Lessor"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, authorized to do business in the State of Florida, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (Lessee").

WITNESSETH:

WHEREAS, Lessor owns and controls that certain plot, parcel or tract of land located at 9685 Light Avenue, Hastings, Florida 32145 in St. Johns County, Florida ("Premises"), improved with a 250-foot, self-support communication tower, together with all rights and privileges arising in connection therewith; and

WHEREAS, said tower is an integral component of an interoperable communication system owned and operated by Lessor for use by local, state and federal public safety agencies providing law enforcement, firefighting services, ambulance services, emergency medical services, emergency management or other emergency services; and

WHEREAS, uninterrupted operation of the interoperable communication system is paramount to Lessor's obligation to provide for the health, safety and welfare of the citizens of St. Johns County; and

WHEREAS, Lessor does hereby propose to lease certain space on the tower and certain ground space at the Premises to the Lessee for the rentals and upon the terms and conditions hereinafter set forth; and

WHEREAS, Lessee desires to lease certain space on the tower and certain ground space at the Premises for the Lease Payments and upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenant and agreements herein contained, Lessor and Lessee do hereby represent, covenant and agree as follows:

Article 1. Definitions.

1.1 Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease Agreement, capitalized words and terms used in this Lease Agreement shall have the meanings giving to such words and terms in this Article 1.

“Communication Tower” means the 250-foot, self support communication tower located at 9685 Light Avenue, Hastings, Florida 32145 in St. Johns County, Florida, that serves as a component part of the interoperable communication system owned and operated by Lessor, and is depicted in Exhibit A, attached hereto and incorporated herein.

“County” means St. Johns County, a political subdivision of the State of Florida.

“Effective Date” means April 16, 2013.

“Expiration Date” means Midnight on May 31, 2018

“FCC” means the United States Federal Communications Commission.

“Government Approvals” means collectively, all local, state and federal permits, licenses and approvals governing Lessee’s activity at the Premises.

“Impositions” means all federal, state or local taxes, general and special assessments, fees and regulatory charges of whatever nature which may be lawfully taxed, charged, levied, assessed or imposed upon or against the Communication Tower or any part thereof leased hereby to Lessee.

“Interference” means any use on the Premises that causes electronic or physical obstruction with or degradation of the communication signals from the Communication Tower.

“Lessee’s Equipment” means personal property located on the Communication Tower or at the Premises as described in Exhibit D, entitled “Equipment Schedule,” attached hereto and incorporated herein.

“Lease Agreement” means this Communications Tower Lease Agreement between Lessor and Lessee dated the Effective Date, along with any attachments, exhibits, supplements and amendments to this Lease Agreement made in accordance with the provisions herein.

“Notice Address” means,

with respect to Lessor: St. Johns County Land Management Systems
Attention: Real Estate Division

500 San Sebastian View
St. Augustine, Florida 32084

with a copy to: St. Johns County Fire Rescue
Attn: Radio Systems Manager
3657 Gaines Road
St. Augustine, FL 32084

with respect to Lessee: New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: 212X0176;
Cell Site Name: Flagler Estates, FL
Fixed Asset No: 10150006
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a copy to: New Cingular Wireless PCS, LLC
Re: Cell Site #: 212X0176;
Cell Site Name: Flagler Estates, FL
Fixed Asset No: 10150006
1025 Lenox Park Blvd.
5th Floor
Atlanta, GA 30319

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

“Premises” means that real that certain plot, parcel or tract of land located at 9685 Light Avenue, Hastings, Florida 32145 in St. Johns County, Florida, described in Exhibit A, attached hereto and incorporated herein.

“Prerequisites” means the requirements, including, but not limited to, drawings, plans, specifications, structural analysis and Interference analysis, set forth in Exhibit B, attached hereto and incorporated herein, along with any permits, licenses and/or approvals that must be successfully completed by Lessee prior to execution of this Lease Agreement.

“Public Safety Agency” means any governmental agency providing law enforcement, emergency management, firefighting services, ambulances, emergency medical or other emergency services.

“State” means the State of Florida.

“Tower and Ground Lease Area” means that space on the Communication Tower and within the Premises where Lessor grants to Lessee permission to install, construct, maintain, operate,

repair, replace and upgrade communication fixtures and related equipment, as specifically described in Exhibit C, attached hereto and incorporated herein.

“**Utilities**” means the equipment, labor and actual costs of providing and supplying electrical and telephone service (if applicable) to Lessee’s Equipment.

1.2. Rules of Interpretation. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons. All references in this Lease Agreement to the designated Articles, Sections and subdivisions of this document as originally executed. The words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or other subdivision.

Article 2. Representations.

2.1 The Lessor makes the following representations: The Lessor makes the following representations:

(a) Lessor is a duly created political subdivision of the State of Florida, and has the power to enter into and perform the transactions contemplated by this Lease Agreement and to carry out its obligations contained herein.

(b) Lessor, except as otherwise provided herein, will not, for the duration of this Lease Agreement, assign, lease, hypothecate, encumber with restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, or otherwise create any other interest in, or dispose of, or cause any lien, claim or encumbrance to be placed against the leasehold interest hereby conveyed to Lessee which would adversely affect Lessee’s Permitted Use and enjoyment of the Premises under this Lease Agreement, provided that and for so long as Lessee’s use of the leasehold interest conveyed hereunder does not interfere with or otherwise reduce Lessor’s ability to use the Premises, Communication Tower or associated equipment or any Public Safety Agency’s use thereof.

(c) Lessor owns fee title to the Premises and all improvements thereto.

(d) Lessor, acting by and through its governing body, has duly authorized the execution and delivery of this Lease Agreement.

(e) As long as Lessee is not in default then Lessor grants to Lessee sole, actual, quiet and peaceful use, enjoyment and possession of the Tower and Ground Lease Area without hindrance or ejection by any persons lawfully claiming under Lessor.

(f) Lessor's execution and performance of this Lease Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Lessor.

(g) If the Premises is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Lessor will provide promptly to Lessee a mutually agreeable subordination, non-disturbance and attornment agreement executed by Lessor and the holder of such security interest.

2.2 Representations by the Lessee: The Lessee makes the following representations:

(a) Lessee is a corporation organized under the laws of the state of Delaware, and is duly authorized to conduct business in the State of Florida. For the duration of this Lease Agreement, Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a corporate entity in good standing.

(b) Lessee has the lawful power and authority to enter into this Lease Agreement and to carry out its obligations contained herein, and by proper action of Lessee's governing body has been duly authorized to execute and deliver this Lease Agreement, acting by and through its duly authorized officers.

(c) Lessee will not use the leasehold interest hereby conveyed by Lessor in any manner, whether directly or indirectly, that will or tends to interfere with or otherwise reduce Lessor's or any Public Safety Agency's use of the Communication Tower or the Equipment Shelter, or any other governmental or non-governmental use of the Communication Tower or Equipment Shelter.

(d) Lessee shall have a continuing duty for the Term of this Agreement to ensure that Lessee's Equipment is accurately reflected in the Equipment Schedule.

(e) Lessee shall comply with all local, state and federal ordinances, statutes, laws, rules, regulations and other applicable provisions governing Lessee's activity at the Premises.

Article 3. Granting Provisions.

3.1 Leasehold and Permitted Use.

(a) Lessor, in consideration of the Lease Payment, covenants and agreements of the Lessee contained herein, does agree to lease to Lessee space within the Premises and necessary space on the Communication Tower located at the Premises, as specifically described and depicted in Exhibit C, Tower and Ground Lease Area, attached hereto and incorporated herein.

(b) Such lease permits Lessee to use the Premises for the transmission and reception of communication signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communication fixtures and related equipment, cables and accessories and improvements, as well as the right to test, survey and review title on the Premises.

(c) Lessee's construction and installation of all equipment at the Premises shall be performed in accordance with plans, drawings and specifications approved by Lessor in writing not to be unreasonably withheld, conditioned or delayed. No subsequent modification, alteration, supplementation, replacement, upgrade, expansion or relocation of any equipment at the Premises shall be made without prior review and written approval by Lessor not to be unreasonably withheld, conditioned or delayed. To the extent it deems advisable, Lessor retains the right to monitor and inspect Lessee's construction and/or installation of any or all equipment at the Premises.

(d) A professional engineer shall seal all structural analyses, Interference analyses, plans, drawings and specifications for construction and installation of any equipment at the Premises, including any subsequent modifications, alterations, supplementations, replacements, upgrades, expansions or relocations of equipment at the Premises. Lessor hereby retains the right to require a third party technical study thereof at the Lessee's expense.

(e) Lessor grants to Lessee a non-exclusive easement and right of way for ingress and egress at all times throughout the Term of this Lease Agreement, and at no additional charge to Lessee, Lessee and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access to and over the Premises and any existing access roads, easements and/or rights of way owned by Lessor to the Premises for the purpose of constructing, installing, maintaining, operating and repairing Lessee's Equipment.

(f) Lessor and Lessee mutually and expressly agree that grant of the lease and permitted use of the Premises is contingent upon the suitability of the Premises for Lessee's intended use and Lessee's ability to obtain all requisite local, state and federal licenses, permits, and/or other necessary approvals including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits and construction permits ("collectively" Government Approvals"). Lessor authorizes Lessee, at Lessee's sole cost and expense, to prepare, execute and file all required applications to obtain Government Approvals. Lessor agrees to reasonably assist Lessee with Lessee's applications for the Government Approvals, however assumes no responsibility for obtaining and/or maintaining any such Government Approvals. Once obtained, failure by Lessee to maintain any Government Approval governing Lessee's activity at the Premises shall constitute cause for Lessor to terminate this Lease Agreement without penalty or further liability.

3.2 Lease Term.

(a) The initial lease term will be fifteen (15) years ("Initial Term"), commencing on the Effective Date. The Initial Term will expire on the fifteenth (15th) anniversary of the Effective Date.

(b) This Lease Agreement will automatically renew for up to four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "Extension Term"), upon the same terms and conditions provided herein, unless either party hereto notifies the other, in writing of the its intent not to renew this Lease Agreement at least one hundred and eighty (180) days prior to the expiration of the then existing Term.

(c) If after expiration/termination of any Term provided herein, Lessee shall continue to occupy the Premises and/or Communication Tower without the express written consent of Lessor, such occupancy shall be a tenancy at sufferance as provided under State law. Rent during such time shall be at the then current Rent rate plus five percent (5%) ("Holdover Rate"). The Holdover Rate shall be subject to an additional five percent (5%) annual increase each year Lessee continues to occupy the Premises and/or Communication Tower without consent by Lessor. Acceptance of any and all Rent by the Lessor during such time shall not constitute: (i) a renewal of this Lease Agreement; (ii) Lessor's consent to such occupancy; (iii) a waiver of Lessor's right of reentry; (iv) a waiver of any other right contained herein; nor (v) a waiver of any remedy available to Lessor at law or in equity.

(d) The word "Term" as used herein shall mean the Initial Term and any available Extension Term(s).

3.3 Termination.

(a) Lessor shall have the right to terminate this Lease Agreement for cause, without penalty or further liability, if Lessee fails to comply with any applicable local, state and/or federal provision governing Lessee's activity at the Premises within the time prescribed by the governing authority, or within thirty (30) calendar days if no time is prescribed. Lessor shall allow Lessee the time prescribed by the governing authority to cure or become in compliance with such failure to the extent that such time to cure does not interfere with Lessor's operation of the interoperable communication system. Delay in curing a cited Lessee activity under this Section 3.3(a) will be excused if due to causes beyond the reasonable control of Lessee.

(b) Lessee shall have the right to terminate this Lease Agreement, upon at least one hundred eighty (180) calendar days prior written notice to Lessor of the intent to terminate, and subject to payment of an early termination fee equal to six (6) months of Rent payments at the then current rate.

(c) Either party shall have the right to terminate this Lease Agreement, without penalty or further liability, if Lessee fails to obtain any required Government Approvals necessary for construction, installation or operation of Lessee's Equipment at the Premises. Once obtained, failure by Lessee to maintain any Government Approval shall not constitute cause for termination of this Lease Agreement by Lessee except as otherwise provided herein.

(d) In accordance with Article 11 of this Lease Agreement, entitled "Default and Right to Cure," either party may terminate this Lease Agreement for cause upon prior written notice to the defaulting party, if the defaulting party fails to cure within the applicable cure periods provided therein. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessor or Lessee, and to the extent that such delay does not interfere with Lessor's operation of the interoperable communication system.

(e) In the event the Premises and/or Communication Tower are damaged by fire, casualty, natural disaster or other harm so as to render it and/or them unleaseable, the Rent shall abate from the date of such damage and shall not resume until the Premises and/or Communication Tower are restored to a leasable condition. If Lessor undertakes to rebuild or restore the Premises and/or the Communication Tower, Lessor agrees to permit Lessee to place temporary transmission and reception facilities on the property subject to the provisions of Article 4 contained herein, and to the extent that placement and/or operation of such temporary facilities do not interfere with Lessor's efforts to rebuild or restore the Premises and/or Communication Tower, and to the extent that placement and/or operation of such temporary facilities do not interfere with Lessor's operation of the interoperable communication system. In the event such damage shall render restoration by Lessor impossible within ninety (90) days of the time of such damage, Lessee may elect to terminate this Lease Agreement without penalty or further liability from the date of said damage. Any unpaid balance of Rent shall be prorated as of such termination date and paid in full by Lessee. Any prepaid Rent shall be prorated and returned to the Lessee for the period the Premises and/or Communication Tower are unleaseable.

Article 4. Rent.

4.1 Lessee shall pay the Lessor rent as provided in the Rent Schedule, attached hereto as Exhibit E and incorporated herein, plus all taxes, if applicable, and subject to the annual increases as provided below in this Article. The initial rent payment shall be due on June 1, 2013 ("Commencement Date") and each subsequent monthly payment shall be due on or before the first (1st) day of each calendar month ("Due Date") for the Term of this Lease Agreement. Lessor agrees to provide Lessee with a completed IRS Form W-9, or its equivalent, upon execution of this Lease Agreement and at such other times as may be reasonably requested by Lessee, including, any change in Lessor's name or address.

Rent shall be payable to Lessor at the following address:

**St. Johns County Land Management Systems
Attention: Real Estate Division
500 San Sebastian View
St. Augustine, Florida 32084**

4.2 The rent shall increase annually on the anniversary of the Commencement Date by an amount equal to five percent (5%) of the rent paid during the previous year.

4.3 A late fee in the amount of five percent (5%) shall be assessed against any monthly rent payment not made on or before the Due Date. Notwithstanding any other provision contained herein, failure by Lessee to make any monthly rent payment within thirty (30) calendar days after the Due Date shall constitute cause for termination of this Lease Agreement by Lessor with no further obligation or penalty.

4.3 All charges payable under this Lease Agreement such as utilities and taxes shall be billed by Lessor 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 Lessor, and shall not be payable by Lessee. The foregoing shall not apply to monthly rent which is due and payable without a requirement that it be billed by Lessor. The provisions of this subsection shall survive the termination or expiration of this Lease Agreement.

Article 5. Interference.

5.1 Lessee's installation, operation, and use of Lessee's Equipment shall not damage or interfere in any way with operation of the interoperable communication system, its lighting system, related repair and maintenance activities or the activities of any Public Service Agency at the Premises. Lessee acknowledges that Interference with operation of the interoperable communication system could cause irreparable harm. In the event that there is Interference to Lessor's operation of the interoperable communication system caused by Lessee's Equipment, Lessor is authorized hereunder to cease all operations which are suspected of causing such Interference (except for intermittent testing to determine the cause of such Interference) until the Interference has been corrected.

5.2 Lessor agrees to provide reasonable advance notice of such activities to Lessee and to reasonably cooperate with Lessee to eliminate the cause of such Interference in order to restore operations.

5.3 Upon execution of this Agreement, Lessor shall provide to Lessee a schedule of reserved and existing radio frequencies in use at the Premises. Lessee warrants and represents that its use of the Premises will not cause Interference to the operations of any reserved or existing frequencies contained therein.

5.4 Prior to the installation of any of Lessee's Equipment on the Communication Tower or at the Premises, Lessee shall provide to Lessor an intermodulation analysis of all existing and proposed receiver and transmitter frequencies and shall certify that no Interference to any existing or proposed transceiver will occur as a result of the installation of any such equipment.

5.5 Lessee shall operate Lessee's Equipment in a manner that will not cause Interference to any and all of Lessor's current and future communication equipment which uses licensed frequencies. Lessee shall operate Lessee's Equipment in a manner that will at no time cause Interference to the operations of any Public Service Agency.

5.6 Lessee shall install, operate and maintain Lessee's Equipment in a manner that will not damage or interfere with the operations of other existing users. In turn, with the exception of any equipment existing at the Premises, and the exception of transmissions on any frequencies allocated by the FCC for non-commercial, public safety communications, Lessor agrees to use its best efforts within seventy two (72) hours following notice to prevent all subsequent lessees from installing and/or operating any equipment in a manner that causes harmful Interference to Lessee's Permitted Use at the Premises. In the event that any such Interference does not cease within the aforementioned cure period, Lessor shall require any subsequent lessee to cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such Interference) until the Interference has been corrected.

Article 6. Maintenance.

6.1 Lessor will repair and maintain the Premises, the Communications Tower and access thereto in good condition, reasonable wear and tear and damage from the elements excepted. Lessee shall keep and maintain all leased portions of the Premises in good condition, reasonable wear and tear expected. Lessee shall provide Lessor reasonable advance notice of any repairs and/or maintenance conducted at the Premises.

6.2 Lessee, at Lessee's sole cost and expense, shall repair and maintain Lessee's Equipment at the Premises or on the Communication Tower in a condition satisfactory to Lessor. Lessee, at Lessee's sole cost and expense, shall maintain and repair Lessee's Equipment, except such maintenance and repair as may be necessitated by or as a result of the negligence of Lessor, in which case, the cost of such reasonable repairs shall be charged to and paid by Lessor.

Article 7. Removal.

7.1 All personal property as described in the Equipment Schedule, attached hereto as Exhibit D and as amended from time to time by written amendment executed by the parties, and incorporated herein, shall remain the sole property of Lessee and shall be removed by Lessee upon termination/expiration of this Lease Agreement. Failure to remove Lessee's Equipment

from the Premises and/or Communication Tower within ninety (90) calendar days after the Term of this Lease Agreement, or other timeframe mutually agreed to by the parties in writing, may result in Lessor removing Lessee's equipment at Lessee's sole cost and expense.

Article 8. Utilities.

8.1 Lessee, at Lessee's sole cost and expense, shall be responsible for obtaining, securing and maintaining all utilities required for use and consumption at the Premises. Lessor shall not be responsible or otherwise liable for any Interference to, interruption or failure of any such services supplied to Lessee for use at the Premises.

8.2 In the event of an interruption of any utility service provided to Lessee at the Premises, through no fault of Lessee, upon prior request by Lessee, Lessor may permit Lessee to secure a temporary source of power for the duration of the interruption. Approval of such requests will not be unreasonably withheld, conditioned or delayed by Lessor.

Article 9. Environmental.

9.1 Lessor represents and warrants, to the best of Lessor's knowledge, as of the Effective Date of this Lease Agreement (i) there are no known hazardous substances, including asbestos-containing materials and lead paint on or at the Premises; and (ii) the Premises has not been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation.

9.2 Lessor and Lessee hereby agree that each will be individually responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to all use of the Premises. Lessor, to the extent permissible by law, and Lessee agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding, to the extent arising from that party's breach of its obligations or representations under Article 9.

9.3 In the event either party hereto becomes aware of any hazardous materials, or any environmental, health or safety condition on, at or relating to the Premises, that party shall, within no less than 5 calendar days of becoming aware of such event, notify the other thereof.

9.4 In the event Lessee becomes aware of any hazardous materials on the Premises, or any environmental, health or safety condition or matter relating to the Premises, not caused by Lessee, that renders the condition of the Premises unsuitable for Lessee's use, or if Lessee reasonably believes that the leasing or continued leasing of the Premises would expose Lessee to

undue risks of liability to a government agency or third party, Lessee will have the right, in addition to any other rights it may have at law or in equity, to terminate this Lease Agreement with notice

Article 10. Access.

10.1 At all times throughout the Term of this Lease Agreement, and at no additional charge to Lessee, Lessee and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access to and over the Premises and property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Tower and any utilities serving the Premises. Lessor shall provide to Lessee any key(s)/access code(s) necessary to access leased portions of the Premises. Lessee shall not permit any employee or agent to have access to such key(s)/access code(s) without advance written permission by Lessor. Lessee shall notify Lessor's designated representative via telephone at (904) 829-2226, prior to and immediately following each entry onto the Premises. Lessee hereby consents to a background investigation for security purposes of any person(s) it provides with the key(s)/access code(s) described herein. Lessee shall immediately notify Lessor of any compromise to the security of the Premises, and/or Communication Tower.

10.2 Lessor and Lessee specifically acknowledge that Lessor reserves the right to preclude, limit or control Lessee's access to the Premises and Communication Tower at any time. The Premises are a component of Lessor's operation of the interoperable communication system, and integrity of the system is of paramount concern. At any time during the Term of this Lease Agreement, Lessor or regulatory officials may require limitations upon Lessee's right of access with verbal and/or written notice of said limitation(s). In such case, Lessor shall provide reasonable notice to Lessee of the proposed limitations, and the parties hereto shall agree in good faith upon access limitations that take into account Lessee's needs for access to Lessee's Equipment, as well as Lessor's paramount responsibility to assure public safety and the integrity of its emergency services communication system, particularly at times of heightened local and national security alerts. Notwithstanding any other provision contained herein, any act or omission by Lessee that compromises the safety or integrity of Lessor's operation of the interoperable communication system shall be cause for immediate termination of this Lease Agreement by Lessor, with no further liability or penalty.

Article 11. Default and Right to Cure.

11.1 In addition to any other events of default and/or breach described herein, the following will be deemed a default by Lessee and cause for termination of this Lease Agreement by Lessor, with no further liability or penalty: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after the Due Date after receipt of written notice from Lessor specifying the failure or (ii) Lessee's failure to perform any other term or condition under this Agreement as provided herein or within thirty (30) calendar days. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessee, and to the extent that such delay does not interfere with Lessor's operation of the interoperable communication system. Notwithstanding any other provision contained herein, if Lessee remains in default beyond any

applicable cure period, Lessor will have the right to terminate this Lease Agreement as provided elsewhere herein and exercise any and all rights and remedies available under law and equity.

11.2 In addition to any other events of default/breach described herein, the following will be deemed a default by Lessor and a breach of this Agreement: (i) failure to provide access as set forth herein; or (ii) Lessor's failure to cure an event of Interference in accordance with Article 5 contained herein; or (iii) Lessor's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within thirty (30) days after receipt of written notice from Lessee specifying the failure. No such failure, however, will be deemed to exist if Lessor has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessor. If Lessor remains in default beyond any applicable cure period, Lessee will have the right to terminate this Lease Agreement as provided elsewhere herein and exercise any and all rights and remedies available under law and equity.

Article 12. Indemnification.

12.1 Lessee shall indemnify, defend, and hold Lessor harmless from all claims (including tort-based, contractual, injunctive, and/or equitable), losses (including property (personal and/or real), and bodily injury), costs (including attorneys' fees), suits, administrative actions, arbitration, or mediation originating from, connected with, or associated with, or growing out of (directly and/or indirectly), the installation, use, maintenance repair, operation or removal of Lessee's equipment and activities on the Premises excepting, however, such costs, claims, liabilities and losses as may be due to or caused by the acts or omissions of Lessor, its invitees, agents or independent contractors (each and collectively, "Lessor Entities' Acts or Omissions"). Lessee shall not be responsible for any costs, claims, liabilities or losses to the extent attributable to any of Lessor Entities' Acts or Omissions.

12.2 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by Lessor, pursuant to this Lease Agreement, or otherwise.

12.3 Nothing in this Lease Agreement shall be interpreted or construed to mean Lessor waives its common law sovereign immunity as provided under Section 768.28, Florida Statutes, or consents to being sued hereunder.

12.4 These provisions relating to indemnification shall survive the termination/expiration of this Lease Agreement.

12.5 Except for the indemnity obligations set forth in this Lease Agreement, and otherwise notwithstanding anything to the contrary in this Lease Agreement, Lessee and Lessor each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

Article 13. Insurance.

13.1 It is expressly understood that Lessor shall bear no responsibility for providing insurance coverage for any property owned by Lessee, and shall bear no liability for any loss of property (real or personal) belonging to Lessee by reason of damage, theft or otherwise.

13.2 Lessee, at Lessee's sole cost and expense, shall secure and maintain for the Term of this Lease Agreement, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate to protect the Lessee from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any activity under this Lease Agreement, whether such operations be by Lessee or by anyone directly employed by or contracting with Lessee.

13.3 Lessee, at Lessee's sole cost and expense, shall secure and maintain for the Term of this Lease Agreement, Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability to protect the Lessee from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by Lessee or by anyone directly or indirectly employed by Lessee.

13.4 Lessee, at Lessee's sole cost and expense, shall secure and maintain for the Term of this Lease Agreement, Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

13.5 Lessee, at Lessee's sole cost and expense, shall secure and maintain for the Term of this Lease Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by State law.

13.6 Lessee will have the right to self-insure the coverages required in this Article 13. In the event Lessee elects to self-insure its obligations described herein, Lessee shall include Lessor as an additional insured. Accordingly, Lessor, shall promptly, and no later than thirty (30) days after notice thereof, provide Lessee with written notice of any claim, demand, lawsuit or the like for which Lessee seeks coverage pursuant to this Article. Lessor shall provide Lessee with any copies of demands, notices, summonses or legal documents received in connection with, or stemming from, such claim demand, lawsuit or the like. Lessor will not settle any such claim, demand lawsuit or the like with prior written consent of Lessee. Lessor shall fully cooperate with Lessee in the defense of the claim, demand, lawsuit or the like.

13.8 The insurance requirements set forth in Article 13 apply the same to any contractor or subcontractor directly or indirectly employed by or hired by the Lessee. In the event of unusual

circumstances, Lessor, upon reasonable notice to Lessee, may adjust the insurance requirements provided herein.

Article 14. Taxes.

14.1 In accordance with State and federal law, Lessor is exempt from the payment of ad valorem taxes. Accordingly, Lessee shall be solely responsible for any taxes and assessments attributable to and levied upon Lessee's leasehold improvements on the Premises. Nothing herein shall require Lessee to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, state, or any tax of similar nature, that is or may be imposed upon Lessor.

Article 15. Notice and Emergency Contact.

15.1 All notices, requests, demands and communication 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 Lessor: St. Johns County Land Management Systems
Attention: Real Estate Division
500 San Sebastian View
St. Augustine, Florida 32084

With a copy to: St. Johns County Fire Rescue
Attn: Radio Systems Manager
3657 Gaines Road
St. Augustine, FL 32084

In case of Emergency: (904) 829-2226

If to Lessee: New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: 212X0176;
Cell Site Name: Flagler Estates, FL
Fixed Asset No: 10150006
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a copy to: New Cingular Wireless PCS, LLC
Re: Cell Site #: 212X0176;
Cell Site Name: Flagler Estates, FL
Fixed Asset No: 10150006
1025 Lenox Park Blvd.
5th Floor

Atlanta, GA 30319

In case of Emergency: {insert contact information}

15.2 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.

Article 16. Miscellaneous Provisions.

- a. To the extent that Lessee needs to secure, obtain, acquire, and/or maintain any permits, licenses or approvals required by Federal, State, and/or County law, rule, regulation or ordinance in order to conduct the permitted activities described herein, then Lessee shall be responsible for securing, obtaining, acquiring, and/or maintaining, at the Lessee's sole expense, any, and all, such permits, licenses, and/or approvals.
- b. In accordance with State law, contemporaneously with the execution of this Lease Agreement, the parties may execute a recordable Memorandum or Short Form of Lease substantially in the form attached as Exhibit F, which either party may record during the Term of this Lease Agreement.
- c. Lessee will have the right to assign, sell or transfer its interest under this Lease Agreement without the approval or consent of Lessor, to Lessee's Affiliate or to any entity which acquires all or substantially all of the Lessee's assets in the market defined by the Federal Communications Commission in which the Premises is located by reason of a merger, acquisition, or other business reorganization. Upon notification to Lessor of such assignment, transfer or sale in writing, Lessee will be relieved of all future performance, liabilities and obligations under this Agreement. Lessee shall not have the right to sublease the Premises. Lessee may not otherwise assign this Agreement without Lessor's consent, Lessor's consent not to be unreasonably withheld, conditioned or delayed.
- d. This Lease Agreement shall not be amended or modified in any manner except by written instrument properly executed by each party.
- e. This Lease Agreement is governed by the laws of the State of Florida and any provisions contained in this Lease Agreement in conflict therewith shall be void and of no effect. Any suit, action or proceeding arising in connection with this Agreement shall be brought in St. Johns County, Florida.
- f. Notwithstanding any other provision to the contrary, neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform its obligations hereunder (other than the obligation of payment) as a result of any acts of God, force majeure, unforeseen event, circumstances, or conditions, governmentally-imposed moratorium, law or regulation or any other matter beyond the reasonable control of that party, and that party shall be relieved from liability for its failure to perform until the cessation of such condition, event, or moratorium.
- g. No delay or failure by either party to exercise or enforce any right or provision of this Lease Agreement will be considered a waiver thereof.
- h. If any provision of this Lease Agreement is determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remainder of this Agreement.

- i. The obligations under this Lease Agreement which by their nature would continue beyond the termination/expiration of the Term of this Lease Agreement shall survive such termination/expiration of this Lease Agreement.
- j. This Lease Agreement contains the entire understanding between the parties with respect to the subject matter of this Lease Agreement.
- k. The headings of any articles, sections or paragraphs of this Lease Agreement are for convenience or reference only and are not intended to affect the meaning of this Lease Agreement.
- l. This Lease Agreement may be executed in one or more counterparts all of which when taken together shall be considered one and the same agreement. A complete, executed copy of this Lease Agreement shall be enforceable as an original.
- m. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Lease Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), as well as other applicable State or federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.
- n. In accordance with State law, the following statement is hereby made: Radon gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon gas that exceed federal and State guidelines have been found in Buildings in Florida. Additional information regarding radon and radon testing may be obtained from the local county health department.
- o. Each party covenants to the other party that it has the lawful authority to enter into this Lease Agreement and has authorized the execution of this Agreement by the party's authorized representative.

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

WITNESSES:

Print Name: _____

Print Name: _____

"LESSOR"

St. Johns County, a political subdivision of the State of Florida

By: _____

Its: _____

Date: _____

WITNESSES:

Print Name: _____

Print Name: _____

"LESSEE"

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Its: Manager

By: _____

John Collins, Area Manager
Construction & Engineering

Date: _____

Prepared by and Return to:
Lane K. Wright
BLACKWATER Group, Inc.
362 Gulf Breeze Pkwy, #173
Gulf Breeze, FL 32561

Cell Site Name: Flagler Estates
Fixed Asset Number: 10150006

State of Florida
County of St Johns

MEMORANDUM OF LEASE

This Memorandum of Lease is entered into on this ____ day of May , 2013, by and between St. Johns County, a political subdivision of the State of Florida, having administrative offices located at 500 San Sebastian View, St. Augustine, Florida 32083 (hereinafter referred to as "Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "Lessee").

1. Lessor and Lessee entered into a certain Communications Tower Lease Agreement ("Agreement") on the ____ day of May 2013, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing are set forth in the Agreement.

2. The initial lease term will be five (15) years ("**Initial Term**") commencing on the Effective Date of the Agreement, with four (4) successive five (5) year options to renew.

The portion of the land being leased to Lessee (the "**Premises**") is described in **Exhibit 1** annexed hereto.

This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

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

"LESSOR"

St. Johns County, a political subdivision of
the State of Florida

WITNESSES:

Print Name: _____

Print Name: _____

By: _____

Print Name: _____

Its: _____

Date: _____

"LESSEE"

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Its: Manager

WITNESSES:

Print Name: _____

Print Name: _____

By: _____

John Collins, Area Manager,
Construction & Engineering

Date: _____

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

LESSEE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF SEMINOLE

On the ____ day of May , 2013, before me personally appeared John Collins, and acknowledged under oath that he is the Area Manager, Construction & Engineering of AT&T Network Operations, and as such was authorized to execute this instrument on behalf of AT&T Mobility Corporation.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

LESSOR ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF St. Johns

On the ____ day of May , 2013, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of St. Johns County Florida and as such is authorized to execute this instrument on behalf of St. Johns County Florida.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

EXHIBIT 1

DESCRIPTION OF PREMISES

To the Memorandum of Lease dated May ____, 2013, by and between St. Johns County, a political subdivision of the State of Florida as Lessor, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Lessee.

The Premises are described and/or depicted as follows:

Parcel Number 050300-1213

That portion of Section 2, Township 10 South, Range 28 East, St. Johns County, Florida, described as follows:

Commence at the northeast corner of Section 1 of said Township 10 South, Range 28 East; thence run south 00 degrees 02 minutes 00 seconds east, along the east line of said Section 1, 1512.94 feet; thence run due west 7309.92 feet to the point of beginning of the hereinafter described parcel of land; thence run due west, 330.00 feet; thence run due south, 165.00 feet; thence run due east 330.00 feet; thence run due north 165.00 feet to the point of beginning. Less the east 30 feet for road, utility and drainage purposes.

Also described as Tract 1213 of Unit 1 of the unrecorded plat of Flagler Estates.

That portion of Section 2, Township 10 South, Range 28 East, St. Johns County, Florida, described as follows:

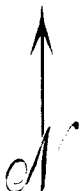
Commence at the northeast corner of Section 1 of said Township 10 South, Range 28 East; thence run south 00 degrees 02 minutes 00 seconds east, along the east line of said Section 1, 1347.94 feet; thence run due west 7309.82 feet to the point of beginning of the hereinafter described parcel of land; thence run due west 330.00 feet; thence run due south 165.00 feet; thence run due east 330.00 feet; thence run due north 165.00 feet to the point of beginning. Less the east 30 feet for road, utility and drainage purposes.

Also described in Tract 1214 of Unit 1 of the unrecorded plat of Flagler Estates.



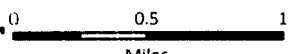
Communications Tower Lease Agreement

New Cingular Wireless PCS/
AT&T Mobility Corporation



Land Management Systems
Real Estate Division
(904) 209-0796

2010 Aerial Imagery



Miles
May 6, 2013 j15762

Disclaimer:

This map is for reference use only.
Data provided are derived from multiple sources with varying levels of accuracy. The St. Johns County Real Estate Division disclaims all responsibility for the accuracy or completeness of the data shown herein.

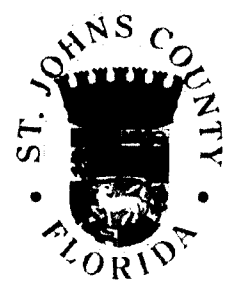


Exhibit E

Rent Payment Schedule

Monthly rate
beginning:

Month Date, 2013	\$2,500.00	Per Month
Month Date, 2014	\$2,625.00	Per Month
Month Date, 2015	\$2,756.25	Per Month
Month Date, 2016	\$2,894.06	Per Month
Month Date, 2017	\$3,038.77	Per Month
Month Date, 2018	\$3,190.70	Per Month
Month Date, 2019	\$3,350.24	Per Month
Month Date, 2020	\$3,517.75	Per Month
Month Date, 2021	\$3,693.64	Per Month
Month Date, 2022	\$3,878.32	Per Month
Month Date, 2023	\$4,072.24	Per Month
Month Date, 2024	\$4,275.85	Per Month
Month Date, 2025	\$4,489.64	Per Month
Month Date, 2026	\$4,714.12	Per Month
Month Date, 2027	\$4,949.83	Per Month
Month Date, 2028	\$5,197.32	Per Month
Month Date, 2029	\$5,457.19	Per Month
Month Date, 2030	\$5,730.05	Per Month
Month Date, 2031	\$6,016.55	Per Month
Month Date, 2032	\$6,317.38	Per Month
Month Date, 2033	\$6,633.24	Per Month
Month Date, 2034	\$6,964.91	Per Month
Month Date, 2035	\$7,313.15	Per Month
Month Date, 2036	\$7,678.81	Per Month
Month Date, 2037	\$8,062.75	Per Month