

RESOLUTION NO. 2014-0007

Adopted by the Housing Authority of the City of Sacramento

May 13, 2014

AUTHORIZATION TO EXECUTE A LONG TERM REVOCABLE PERMIT WITH NEW CINGULAR WIRELESS PCS TO PLACE CELL TOWERS AT 1731/1725 K STREET, SACRAMENTO, CA; ENVIRONMENTAL FINDINGS

BACKGROUND

- A. The Housing Authority of the City of Sacramento adopted Resolution HA91-036 in 1991 to authorize the Executive Director to grant easements to Utility Companies and Public Agencies.
- B. Over the past 22 years significant advancements in technology and changes in the legal environment have given private sector businesses incentive to pay for use of roof space or other easements to place and service their equipment.
- C. New Cingular Wireless PCS, a for-profit mobile voice and data communication service provider, has initiated discussions regarding a non-exclusive five (5) year revocable permit agreement, with the option to extend for four (4) renewable terms of five (5) years each for a possible total of twenty five (25) years.
- D. The Executive Director's delegated authority only applies to public utility companies and public agencies. Authorization is needed from the Board to execute the New Cingular Wireless PCS Agreement for Issuance of Revocable Permit.
- E. A duly noticed Public Hearing was held on May 7, 2014 at the Sacramento Housing and Redevelopment Agency Commission meeting to solicit public input.
- F. The recommended action to approve and grant a permit to place equipment in the elevator penthouse with antennas on the roof of the elevator penthouse on an existing facility located at 1725/1731 K Street is categorically exempt from California Environment Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15303 (a) and (b) as minor alterations to the interior and exterior of buildings roof and Section 15303(d) and (e) for the utility extension and the construction of small accessory structure. The National Environmental Policy Act (NEPA) does not apply.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:

- Section 1. The above declarations set forth in the above recitals including the environmental findings, are found to be true and correct.
- Section 2. The Executive Director is authorized to execute a non-exclusive Agreement for Issuance of Revocable Permit with New Cingular Wireless PCS (as set forth in Exhibit A) for the installation and servicing of equipment necessary for the provision of mobile voice and data communication services for a term not to exceed five (5) years with the option to extend for four (4) renewable terms of five (5) years each for a possible total of twenty five (25) years at the 1725/1731 K Street, Sacramento, CA property.
- Section 3. The Executive Director is authorized to amend the Housing Authority budget to receive and allocate the first year revenue from the revocable permit of \$21,600 and the three percent annual increase over the most recent 12 months' payment level received in consideration of the Agreement to 1725/ 1731 K Street, Sacramento, California for which this Agreement generated revenue. The funds shall be expended from an approved or amended property-level budget, approved by the Executive Director or her designee.

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Exhibit A: Agreement for Issuance of Revocable Permit

Adopted by the Housing Authority of the City of Sacramento on May 13, 2014, by the following vote:

Ayes: Members Ashby, Cohn, Fong, Hansen, McCarty, Pannell, Schenirer, Warren

Noes: None

Abstain: None

Absent: Mayor Johnson

Attest:

Shirley A. Concolino

Digitally signed by Shirley A. Concolino
DN: cn=Shirley A. Concolino, o=City of Sacramento, ou=City
Clerk, email=sconcolino@cityofsacramento.org, c=US
Date: 2014.05.20 12:32:14 -07'00'

Shirley Concolino, Secretary

AGREEMENT FOR ISSUANCE OF REVOCABLE PERMIT (UTILITIES)

THIS AGREEMENT FOR ISSUANCE OF REVOCABLE PERMIT ("Agreement"), dated _____, 2014, is made by and between New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Permittee") and the HOUSING AUTHORITY OF THE CITY OF SACRAMENTO ("Housing Authority") with respect to the following facts:

RECITALS

WHEREAS, Housing Authority owns and maintains certain real property currently located at 1731 K Street, in the City of Sacramento, County of Sacramento, State of California 95811 [Assessor's Parcel Number 006-0125-014], commonly known as "1725 K Street" and which is more fully described in Exhibit "A" hereof, (the "Property"); and

WHEREAS, Permittee is a private entity which provides mobile wireless communications services through the use of WTF (as defined in Section 1 below) located within the City of Sacramento and elsewhere; and

WHEREAS, Permittee desires to locate WTF in and on the Property owned by Housing Authority; and

WHEREAS, Housing Authority is willing to allow Permittee to do so on the basis of a revocable permit, and upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, the parties agree as follows:

1. ISSUANCE OF REVOCABLE PERMIT

Upon the terms and conditions set forth in this Agreement, Housing Authority hereby agrees to issue to Permittee a non-exclusive revocable permit ("Revocable Permit") for installation and maintenance of a wireless telecommunications facility consisting of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, l beams, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises ("WTF"), with associated structures and equipment. Additionally, at all times throughout the Term (as defined in Section 2, below) of this Agreement and at no additional charge to Permittee, Permittee and its employees, agents, and subcontractors, will have twenty-four (24) hours per day, seven (7) days per week pedestrian and vehicular access ("Access") to and over the Property, from an open and improved public road to the location of the WTF on the Property specified in Exhibit "B" hereof (the "Premises") for the installation, maintenance and operation of the structures and equipment and any utilities serving the

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Premises. Housing Authority agrees to provide to Permittee such codes, keys, and other instruments necessary for such access at no additional cost to Permittee. This Agreement and all of its terms and conditions shall remain in effect during the entire Term of the Revocable Permit. This Agreement is expressly agreed to be non-exclusive, and, subject to the covenants in Paragraph 4 below, Housing Authority shall be free to enter into agreements or permits with other parties, including related or non-related providers, for revocable permits or similar arrangements. Housing Authority and Permittee agree that the Revocable Permit will not be issued until and unless Permittee has obtained all entitlements required by Paragraph 5 herein, Permittee has paid such fees to the Housing Authority as are required by Paragraph 3 herein, and Permittee is in compliance with Sacramento City Code Section 3.76.050.

2. TERM OF REVOCABLE PERMIT

A. Initial Term

The initial term ("Initial Term") of the Revocable Permit issued pursuant to this Agreement shall be for a period of five (5) years, commencing on the Effective Date of this Agreement as defined in Paragraph 10 herein.

B. Renewal Term

Upon expiration of the Initial Term, Permittee shall have the right to renew this Agreement and the Revocable Permit issued pursuant to this Agreement upon the same terms and conditions for four (4) additional five (5) year terms ("Renewal Term") except as to the fee to be paid by Permittee to Housing Authority during the Renewal Term, which fee shall be determined pursuant to subparagraph 3(d) of this Agreement. Permittee and Housing Authority agree that the Renewal Term shall occur automatically and without the need for Permittee to provide Housing Authority with written notice of its intent to exercise its right to the Renewal Term. Should Permittee choose not to exercise its right to the Renewal Term, Permittee shall provide written notice to Housing Authority no less than thirty (30) days prior to the termination of the Initial Term or then existing Renewal Term. Permittee shall have no other right to extend the term beyond the Renewal Term. The Initial Term and Renewal Term are collectively referred-to as the "Term".

C. Termination & Revocation

(1) Discretionary Termination. Each party shall have the right to terminate this Agreement by giving the other party not less than eighteen (18) months advance notice in writing to terminate, which notice shall state the exact date of termination, provided that the Housing Authority may not institute discretionary termination for the first five (5) years unless revocation is required under Subparagraph C(2) and C(3). Termination of this Agreement pursuant to this subparagraph 2(c)(1) shall constitute revocation of the Revocable Permit issued pursuant to this Agreement.

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Any portion of the Annual Fee paid in advance pursuant to paragraph 3 of this Agreement shall be prorated to the date of termination.

Housing Authority shall immediately provide Permittee with written notice in the event that Housing Authority contemplates any construction, rehabilitation or other work on the Property that may in any way affect the WTF or the Premises. In the event Housing Authority requires the Premises during the Term due to required construction, rehabilitation or other work of improvement on the Premises in furtherance of Housing Authority's primary purpose, Permittee shall be given the right to temporarily relocate its WTF on the Property, subject to the following conditions: (a) Permittee reasonably consents to the new location, (b) Permittee will be able, with reasonable efforts, to maintain or obtain all necessary licenses, permits or approvals, (c) no material interference or degradation to Permittee's use of the Premises will result, (d) Permittee shall be able to locate a temporary communications facility on the Property, (e) Housing Authority shall only have the right to require relocation once during the Term and not until the expiration of the Initial Term, (f) such relocation shall be at Housing Authority's sole cost and expense, (g) Housing Authority shall provide Permittee with as much advance written notice as reasonably possible prior to requiring that Permittee temporarily relocate. Upon relocation of all or a portion of Permittee's Equipment to the alternate site, all references in this Agreement to the Premises shall be deemed to include the alternate site, and this Agreement shall be amended to include an Exhibit "B-1" showing the relocation Premises on the Property.

(2) Termination for Cause. Each party shall have the right to terminate this Agreement immediately for breach by the other party ("Breaching Party") of any material term or condition of this Agreement, by giving the Breaching Party written notice of default specifying the exact cause or causes for the default and specifying that the breaching party shall have thirty (30) days to cure the default; provided, however, that no default will be deemed to exist if the Breaching Party has commenced to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. Except with respect to Permittee's obligation to pay any sums payable by Permittee hereunder, the time for performance by Housing Authority or Permittee of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of Housing Authority or Permittee, as the case may be. The notice shall also state that in the event the default is not so cured, this Agreement is terminated effective retroactively to the earlier of date of mailing of the notice as specified herein, or the date of personal delivery of the notice to an employee or agent of the Breaching Party at the location specified in this Agreement. Termination of this Agreement pursuant to this subparagraph 2(c)(2) shall constitute revocation of the Revocable Permit issued pursuant to this Agreement.

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(3) Homeland Security. The Housing Authority may terminate the Revocable Permit at any time if it is determined by the Housing Authority in its sole discretion that national or local security emergency requires the revocation of the Revocable Permit. If such determination is made by the Housing Authority the Permittee will be required to remove the structures and equipment as indicated in this Agreement. Access to structures and equipment may be denied by the Housing Authority pending arrangements for removal.

(4) Removal of Structures and Equipment on Termination. Unless otherwise directed by Housing Authority in writing (and subject to the provisions of subparagraph 4(g) herein), within thirty (30) days of the termination of this Agreement and at Permittee's sole cost and expense, Permittee shall remove all structures and equipment from the Premises, and shall restore the Premises to their original condition prior to the issuance of the Revocable Permit normal wear and tear excepted. In the event that the Premises or any portion thereof are damaged by Permittee in the process of removal, such damage shall be repaired forthwith by Permittee at Permittee's sole cost and expense. Upon termination of this Agreement, but only to the extent that the termination results from an uncured default by Permittee under this Agreement, Housing Authority shall have the option, in its sole discretion, of retaining those structures (including, without limitation, tower(s), monopole(s), buildings), vault(s), equipment shed(s), and pad(s), but excluding antenna(s)) installed by Permittee on the Premises, which structures shall then become the property of the Housing Authority in "as is, whereis" condition, and otherwise without warranty of any kind either expressly or by implication. Housing Authority shall exercise its option of retaining such structures by providing written notice to Permittee prior to the termination of this Agreement.

(5) Return of Removal Bond. In the event Permittee removes those structures and equipment from the Premises as required by the Housing Authority, and restores the Premises to the condition existing immediately prior to the issuance of the Revocable Permit as required by this Agreement, Housing Authority shall release the Removal Bond. In the event Permittee does not remove any structures or equipment from the Premises as required by this Agreement, or does not restore the Premises to the condition existing immediately prior to the issuance of the Revocable Permit as required by this Agreement, Housing Authority may use the Removal Bond for such purposes.

(6) [Intentionally Omitted].

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3. FEES

A. Annual Fee. For the first year of the Initial Term of this Agreement, Permittee shall pay to the Housing Authority an annual fee of Twenty One Thousand Six Hundred Dollars (\$21,600) ("Annual Fee").

B. Removal Bond. Permittee shall provide to Housing Authority a bond, letter of credit, or other security instrument, of a type and in such an amount reasonably satisfactory to the Housing Authority, but in no event to exceed Thirty Thousand and No/100 Dollars (\$30,000.00), that is adequate to pay for the removal of the WTF installed on the Premises by Permittee ("Removal Bond"). Permittee shall keep the Removal Bond in effect for the duration of this Agreement, including any extensions or renewals hereof. Permittee may meet its Removal Bond obligations by providing to the Housing Authority a monetary payment adequate to pay for the removal of the WTF installed on the Premises by Permittee. Upon a Surety's written notice to Housing Authority of cancellation of a Removal Bond, Permittee must submit written notice and proof of a replacement Removal Bond within thirty (30) days.

C. Annual Adjustment. The Annual Fee shall be adjusted annually on each annual anniversary of the Effective Date as referenced in Paragraph 10 of this Agreement according to the Consumer Price Index (CPI) for all Urban Consumers: San Francisco, Oakland, San Jose index, not to exceed three percent (3%) annually.

D. Renewal Period.

(1) As the Renewal Term shall occur automatically, as provided in subparagraph 2(b) herein, unless otherwise terminated by either party as provided in Subsection 2(C) the Annual Fee during the Renewal Term shall be "Fair Market Rate" as of the first day following the termination of the Initial Term or any applicable Renewal Term ("Renewal Term Effective Date"), unless the Agreement is otherwise terminated pursuant to the terms and conditions expressly set forth herein.

(2) As used in this Agreement, "Fair Market Rate" shall be deemed to mean the fee that would typically be paid by a permittee under a similar permit for a City of Sacramento site of a similar type, design, and quality in the same or similar geographic area (including park sites) in which the Premises are situated under market conditions existing as of the Renewal Term Effective Date.

(3) [Intentionally Omitted].

(4) If Permittee and Housing Authority cannot agree on the Fair Market Rate within thirty (30) days after the Renewal Term Effective Date, the amount

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payable during the Renewal Term of the Agreement shall continue to be adjusted according to the provisions of subparagraph 3(c) herein.

E. Manner of Payment of Fees. Permittee shall pay the full first year Annual Fee in advance, with payment due and payable within forty-five (45) days following the date the Housing Authority issues the Revocable Permit to Permittee. Payment of the full Annual Fee for subsequent years shall be due and payable on the anniversary date of the Effective Date as described in paragraph 10 herein. The Removal Bond shall be provided to the Housing Authority within forty-five (45) days following the date the Housing Authority issues the Revocable Permit to Permittee. All fees and the Removal Bond shall be delivered to Housing Authority at the address specified in Paragraph 12 herein for the giving of notices.

4. USE OF THE PREMISES

A. Nature of the Use Allowed. Permittee shall use the Premises strictly in accordance with the terms of this Agreement and the Revocable Permit, solely for the purpose of installation and maintenance of a WTF, including, without limitation, related antenna equipment and fixtures. Permittee shall have reasonable rights of ingress and egress to the Premises to conduct, at the sole expense of Permittee, surveys, structural strength analyses, subsurface boring tests, and other similar activities with the written consent of Housing Authority, which consent shall not be unreasonably withheld, conditioned or delayed. Permittee may, at its sole expense, make such improvements on the Premises as it deems necessary from time to time for the operation of a transmitting and receiving site for wireless voice and data communications; provided, however, that any alteration other than replacing equipment with equipment of like kind will require written approval of the Housing Authority, which approval shall not be unreasonably withheld, conditioned or delayed. In no event shall Permittee be required to obtain Housing Authority's approval for any changes, alterations or improvements within the footprint of the Premises, or for any other changes, alterations or improvements which do not materially and adversely affect the aesthetic appearance of the WTF initially approved by Housing Authority hereunder, when viewed by the general public with the naked eye from areas which are readily accessible to the general public at street level and in the immediate vicinity of the Premises. For those alterations or improvements requiring Housing Authority's reasonable approval, in no event shall Housing Authority condition any such approval on any increase in the Annual Fee or any other direct or indirect costs or fees to Permittee under this Agreement.

B. Non-interference with Housing Authority Use. Permittee shall use the Premises in a manner which is at all times subordinate to and consonant with Housing Authority's use of the Property and the Premises. Notwithstanding the foregoing, Housing Authority acknowledge and agree that Permittee's use of the Premises in accordance with entitlements issued to Permittee shall be deemed to be a use which is consonant with Housing Authority's use of the Property and the Premises.

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Permittee shall not have access to nor disturb the property or its residents after 9:00pm and before 7:00am, provided, however, that notwithstanding the foregoing, Permittee shall have twenty-four (24) hours a day, seven (7) days a week for unscheduled repairs and other emergency purposes (which shall be conclusively deemed to include any failure of the WTF). In the event Permittee needs access after between 9:00PM and 7:00AM, Permittee will endeavor to give Housing Authority prior notice, if feasible, by contacting Housing Authority at (916)449-6301, and shall otherwise comply with any and all emergency access rules and regulations adopted and applied by Housing Authority during the Term, provided that any such rules and regulations are adopted and applied in a reasonable, uniform and non-discriminatory manner.

C. Non-interference with Housing Authority Communications and Other Uses. Permittee agrees and understands that Housing Authority maintains a communications system, including associated installations and equipment, which provides routine and emergency communications with its officers and employees, as well as officers and employees of other jurisdictions, and that it is imperative that there be no interference with that system by virtue of Permittee's use of the Premises. At all times during the Term, Permittee will only operate its WTF within (i) effective radiated power levels and (ii) frequencies which Permittee is authorized to utilize by the Federal Communications Commission ("FCC"). Permittee agrees to resolve technical interference problems with other equipment located at the Premises as of the Effective Date. Permittee agrees to resolve any such technical interference problems associated with any future equipment that Permittee adds or attaches to the Premises during the Term of this Agreement. Permittee agrees to resolve technical interference problems with other equipment located at the Premises as of the Effective Date. Permittee agrees to resolve any such technical interference problems associated with any future equipment that Permittee adds or attaches to the Premises during the term of this Agreement.

D. Nuisance. Permittee shall at all times conduct its use of the Premises in such a manner that it shall not constitute a public or private nuisance.

E. Damage to Housing Authority Property. Permittee shall at all times conduct its use of the Premises in such a manner so as not to damage Housing Authority property. Permittee shall be liable to Housing Authority for any damage to any Housing Authority property, including but not limited to, the roof, the building, trees, sprinklers, lawn, other landscaping, fixtures, equipment, structures, vehicles, or other Housing Authority property, arising out of or in any way directly related to or resulting from the installation, maintenance or operation of Permittee's structures and equipment on the Premises, or any action or activity of Permittee, or its employees, agents, or contractors.

F. Non-interference with Permittee's Use. Housing Authority agrees that, subject to all other provisions of this Agreement, and subject to Housing Authority's right to grant other or additional permits, Permittee is entitled to reasonable access to

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the Premises at all times throughout the Term. If Housing Authority desires to permit another communications provider to install equipment on the Premises with the potential to cause interference problems with Permittee's then-existing equipment, then prior to entering into an agreement with such proposed communications provider, Housing Authority will give written notice to Permittee of such proposed installation. Such notice shall include technical information from the proposed provider which is sufficient to determine whether the proposed use will interfere with Permittee's operation of the WTF. Permittee agrees to cooperate with the proposed provider to resolve any such interference problem(s). Housing Authority agrees that any future agreement which permits the installation of communications equipment on the Premises shall be conditioned upon not interfering with Permittee's then-existing operation of the WTF. Permittee shall not be required to modify Permittee's then-existing WTF to prevent interference with any new communications use of the Premises so long as Permittee operates the WTF within its assigned frequencies and in compliance with all applicable FCC Rules and Regulations.

G. Co-location. Permittee will use reasonable efforts to make its WTF available for co-location provided that future co-locators enter into reasonable co-location agreements with Permittee including, but not limited to customary provisions for payment to Permittee of a reasonable portion of Permittee's installation costs, on-going maintenance and repair costs and rent for the use of the WTF. Permittee acknowledges and agrees that the Housing Authority may allow other providers of communications facilities to locate on the same Premises and/or on the same WTF as Permittee, including such WTF as may be constructed by Permittee. In the event any other facilities are co-located on WTF constructed and/or used by Permittee, Permittee agrees not to dismantle or otherwise alter the WTF being used by Permittee for as long as the WTF are being used by any other permittee(s). At the expiration of all uses on the WTF used by Permittee, Permittee agrees, at Housing Authority's option, either to remove the WTF used by Permittee or leave the WTF used by Permittee in its then current condition.

H. Reservation for Public Use. Subject to the commitments which Permittee may have made or is in the process of making at the time of a Housing Authority request, Permittee shall use reasonable efforts to provide a reasonable allowance of space on its WTF for public communications use by public agencies in such location(s) and in such manner(s) as may be reasonably requested by Housing Authority. Such space shall be provided at no cost if used by Housing Authority.

I. Existing Radio Frequency Users. Where there are existing radio frequency user(s) on the Property, Housing Authority will provide Permittee, upon execution of this Agreement, with a list of all existing radio frequency user(s) on the Property to allow Permittee to evaluate the potential for interference. Permittee warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Property so disclosed by Housing Authority, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies

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and in accordance with all applicable laws and regulations.

J. Non-interference with Permittee Communications and Other Uses. Housing Authority will not use, nor will Housing Authority permit its employees, tenants, licensees, invitees, agents or independent contractors to use, any portion of the Property in any way which interferes with the structures or equipment, the operations of Permittee or the rights of Permittee under this Agreement. Housing Authority will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Permittee. In the event any such interference does not cease within the aforementioned cure period, Housing Authority shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

K. Interference. For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the structures or equipment.

5. ENTITLEMENTS

Prior to the issuance of the Revocable Permit, Permittee shall at its sole and exclusive expense, obtain all necessary local land use entitlements, building permits, and other Housing Authority, County, State or Federal permits as may be necessary to operate the WTF contemplated by Permittee. Housing Authority authorizes Permittee to prepare, execute and file all required applications to obtain all necessary local land use entitlements, building permits, and other City, County, State or Federal permits for Permittee's permitted use under this Agreement and agrees to reasonably assist Permittee with such applications and with obtaining and maintaining all necessary local land use entitlements, building permits, and other City, County, State or Federal permits. These Permits shall not be construed as a waiver of any requirement, fee, or procedure required to obtain any such entitlement or permit. By accepting the Revocable Permit, Permittee warrants and represents that it has obtained all necessary local land use entitlements, building permits, and other City, County, State or Federal permits to operate the WTF contemplated by Permittee.

6. CONSTRUCTION REQUIREMENTS

A. Location of Structures and Equipment. The initial location of the structures and equipment to be installed by Permittee shall be in the sole and exclusive discretion of the Housing Authority, as detailed on Exhibit "B". In the event Housing Authority thereafter determines that structures or equipment need to be moved to accommodate Housing Authority's paramount use of the Property, which use also reasonably requires the relocation of the structures or equipment, Housing Authority shall meet and confer with Permittee to discuss the necessary relocation of structures or equipment; provided, however, that the determination that said structures and equipment need to be moved shall be in the sole and exclusive discretion of the Housing Authority. The ultimate location of Permittee's structures and equipment shall

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be mutually agreeable to both parties; provided, however, that in no event shall Permittee be required to relocate its antennas to a different place on a tower, or to pay for the relocation of its base station equipment, in order to accommodate another telecommunications provider.

B. Housing Authority Approval of Plans, Specifications and Design.

Permittee shall submit to Housing Authority prior to commencing any construction on the Premises complete plans and specifications, including detailed site plans, for the structures and equipment to be installed on the Premises. Housing Authority shall have absolute discretion to specify design requirements, aesthetic requirements, and specifications excepting those technical requirements relating to operation of the WTF. The plans and specifications and site plan shall also be part of Exhibit "B" hereof. Permittee shall not commence any construction on the Premises until and unless the Housing Authority has approved all plans and specifications for that construction. Any damage to Housing Authority facilities during construction shall be promptly repaired by Permittee. Permittee shall complete construction and installation of structures and equipment within ninety (90) days of issuance of the Revocable Permit.

C. Seismic Safety.

Because Permittee's equipment will, in part, be located above ground level in areas where falling heavy equipment would likely result in personal injury or death, and property damage, Permittee shall employ the professional services of qualified engineers for the purpose of investigating the seismic risks at the Premises related to attaching Permittee's equipment to the Premises, and for recommendations concerning measures required to strengthen the methods and equipment used to attach the Permittee's equipment to the Premises. Permittee shall consult with Housing Authority prior to selecting an engineer, and shall furnish to Housing Authority a copy of all reports and recommendations of the engineer, together with any supporting data, calculations or studies upon which the engineer has based conclusions and/or findings. Housing Authority shall have the right to approve or disapprove the report and recommendations prior to construction by Permittee. No such construction shall commence prior to delivery to Housing Authority of a report and recommendations approved by Housing Authority.

D. Contact Requirement.

Permittee shall inform Housing Authority in writing in the manner designated in paragraph 12 herein at least twenty-four (24) hours prior to any intended excavation on or around the Premises.

E. Temporary Relocation of Structures and Equipment.

In the event that construction or renovation of Housing Authority property requires removal of Permittee's structures and/or equipment, the Housing Authority may agree to temporary relocation in lieu of removal. At the conclusion of the construction or renovation, the Permittee's structures and/or equipment shall be returned to its previous location within a reasonable amount of time unless the parties agree to a different location in writing. All costs related to temporary relocation shall be paid by Permittee.

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7. MAINTENANCE & REPAIR

Permittee shall at all times during the term of this Agreement maintain its structures, equipment, and required landscaping on the Premises, in good and safe operating order and condition, reasonable wear, tear and damage from the elements excepted.

8. INSURANCE; LIABILITY; INDEMNIFICATION

A. Insurance Requirements. During the entire term of this Agreement, Permittee shall maintain the following noted insurance:

(1) Minimum Scope of Insurance.

Coverage shall be at least as broad as:

a. Insurance Services Office Form No. CG 001 (Broad Commercial General Liability);

b. Insurance Services Office Form Number CA 0001 (Automobile Liability, Code 1 "any auto");

c. Workers' Compensation as required by the Labor Code of the State of California, and Employers' Liability insurance.

B. Limits of Insurance. Permittee shall maintain limits:

(1) Commercial General Liability: \$1,000,000 combined single limit per occurrence and \$2,000,000 in the aggregate for bodily injury, personal injury and property damage.

(2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

(3) Worker's Compensation and Employers' Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers' Liability limits of \$1,000,000 per accident.

C. Self-Insured Retention. Any amounts that Permittee (rather than its insurance carrier) must pay directly to any third party as compensation for any insured loss or liability described as a self-insured retention must be declared to by Housing Authority.

D. Other Insurance Provisions. All policies are to contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverages:

a. Housing Authority, its officials, employees and volunteers are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of Permittee; products and completed operations of Permittee; premises owned, leased or used by Permittee; or automobiles owned, leased, hired or borrowed by Permittee. The coverage shall contain no special limitations on the scope of the protection except claims arising out of sole negligence of the additional insureds, afforded to Housing Authority, its officials, employees or volunteers, with respect to Permittee's operations of and on the Premises.

b. Permittee's required insurance coverage shall be primary insurance with respect to Housing Authority, its officials, employees and volunteers. Any insurance or self-insurance maintained by Housing Authority, its officials, employees or volunteers shall be excess of Permittee's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Housing Authority, its officials, employees, or volunteers.

d. Coverage shall state that Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) Permittee shall provide at least thirty (30) days prior written notice to Housing Authority of any cancelation or non renewal of any required coverage that is not replaced.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a Bests' rating of no less than A minus:VII. Notwithstanding the forgoing, Permittee may, in its sole discretion, self insure any of the required insurance under the same terms as required by this Agreement. In the event Permittee elects to self-insure its obligation under this Agreement to include Housing Authority as an additional insured, the following conditions apply:

(i) Housing Authority shall promptly and no later than thirty (30) days after notice thereof provide Permittee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Permittee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;

(ii) Housing Authority shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Permittee; and

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(iii) Housing Authority shall fully cooperate with Permittee in the defense of the claim, demand, lawsuit, or the like.

F. Verification of Coverage. Permittee shall furnish Housing Authority with certificates of insurance showing compliance with the above requirements and with copies of endorsements effecting all coverages required by this clause, or other similar documentation acceptable to the Housing Authority's Risk Manager within thirty (30) days of the Effective Date of this Agreement and shall attach documents hereto as Exhibit "C". The certificates, endorsements and/or other acceptable documents shall set forth a valid policy number for Housing Authority, and shall indicate the Issue Date, Effective Date and Expirations Date. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf.

G. Insurance. In any required commercial general liability policy covering personal injury or property damage, Housing Authority shall be included as an additional insured at no cost to Housing Authority. Additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Permittee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of additional insured, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of additional insured, its employees, agents or independent contractors; and, (iii) not exceed Permittee's indemnification obligation under this Agreement, if any.

H. No Housing Authority Liability for Loss or Damage to Permittee's Structures or Equipment. In the event that Permittee's structures or equipment installed on the Premises are damaged in any way, irrespective of the cause, excepting Housing Authority's willful misconduct or gross negligence, Housing Authority shall not be liable therefore and Permittee shall have no claim or right against Housing Authority for the costs of repair or replacement. This clause is intended as a complete release of liability in favor of Housing Authority, including without limitation all claims whether known or unknown, liquidated or unliquidated, contingent or absolute. Permittee has knowledge of and understands the terms and effect of California Civil Code Section 1542, and voluntarily waives the benefits of the terms of that statute. California Civil Code Section 1542, states in full:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

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I. Indemnification and Defense of Housing Authority. Permittee shall indemnify, defend and hold harmless Housing Authority and its officers, employees and agents, from and against any and all claims, losses, liabilities, or damages, including payment of attorneys' fees, whether for personal injury or property damage, rising out of or in any way directly or indirectly related to or resulting from the installation, maintenance or operation of Permittee's structures and equipment on the Premises, or any action or activity of Permittee or its officers, employees, or agents relating to the performance of the terms of this Agreement or the Revocable Permit, irrespective of whether caused in part by Housing Authority, its officers, agents or employees, except where Housing Authority's actions constitute willful misconduct or Housing Authority's negligence.

9. TAXES

Permittee shall pay all personal property and other taxes assessed upon its structures and equipment, and any possessory interest or other property tax imposed on Permittee or Housing Authority by virtue of or relating to the installation, maintenance or operation of Permittee's structures and equipment on the Premises. In the event that the Sacramento County Assessor requires preparation and filing of any form of tax exemption application due to the existence on the Premises of Permittee's structures or equipment, Permittee shall pay the entire cost of preparation and processing of such applications, including reasonable attorneys' fees associated therewith. Pursuant to Section 107.6 of the California Revenue and Taxation Code, Housing Authority hereby informs Permittee that there may be a possessory interest tax levied by virtue of this Agreement.

10. EFFECTIVE DATE

The effective and operative date of this Agreement shall be upon approval of Housing Authority (the "Effective Date"). However, this Agreement shall be of no force or effect and shall be deemed terminated without liability to Housing Authority if Permittee fails to provide valid proof of insurance acceptable to Housing Authority's Risk Manager within the time period specified in subparagraph 8(f) herein. This Agreement further shall be of no force or effect and shall be deemed terminated without liability to Housing Authority if Permittee fails to obtain and maintain any entitlement, permit or approval required for the installation, operation, or maintenance of its structures or equipment after Permittee's receipt of written notice followed by a reasonable amount of time to acquire same, or if Permittee fails to obtain final Housing Authority approval of the installation, within one hundred eighty (180) days of the Effective Date.

11. ASSIGNMENT AND SUBLETTING

Permittee shall not have the right to transfer, assign or sublet its Revocable Permit, or any of its rights under this Agreement, in whole or in part, without the prior

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written consent of Housing Authority, which consent shall not be unreasonably withheld, conditioned or delayed ; provided, however, that Permittee may assign or sublet without Housing Authority's prior written consent to its general partner or to any party controlling, controlled by or under common control with Permittee or to any party which acquires substantially all of the assets of Permittee in Sacramento County. Any other attempt to so assign or sublet without the prior reasonable consent of Housing Authority when such consent is required under this Section 11 shall be void. Housing Authority covenants to provide reasonable cooperation to Permittee to encourage co-location of other wireless service providers on the WTF installed by Permittee and to provide reasonable assistance with agreements for user of Housing Authority ground space in furtherance of such co-location opportunities. The prohibition on assignment and subletting pursuant to this Agreement specifically includes, without limitation, the subleasing, licensing, or granting of other rights to use all or any portion of the WTF (including towers) constructed or used by Permittee on the Premises. Any revenue obtained by Permittee from any such assignment or subletting authorized hereunder shall be the property of the Housing Authority.

12. NOTICES

Any notice that either party may or is required to give the other shall be in writing, and shall be either personally delivered or sent by regular U.S. Mail certified and postage prepaid. All notices must be in writing and are effective upon receipt or the refusal to accept receipt, to the addresses set forth below:

A. To: The Housing Authority of the City of Sacramento:

Housing Authority of the City of Sacramento
801 12th Street
Sacramento, CA 95814
Attn: Assistant Director of Housing
Telephone: 916-440-1334
Facsimile: 916-442-3718

B. To Permittee:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: CNU1271
Search Ring Name: D Street & 11th Street
Cell Site Name: D Street & 11th Street (CA)
Fixed Asset #: 10150789
575 Morosgo Drive NE
Suite 13F, West Tower
Atlanta, GA 30324

With a copy to:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Dept - Network Operations
Re: Cell Site #: CNU1271
Search Ring Name: D Street & 11th Street
Cell Site Name: D Street & 11th Street (CA)
Fixed Asset #: 10150789
208 S. Akard Street
Dallas, TX 75202

13. NO AGENCY RELATIONSHIP

Nothing in this Agreement or the application thereof shall be construed to create any relationship between the parties other than that of a permitting agency and a permittee as to the premises. Permittee is not an agent of Housing Authority in performing the terms of this Agreement or in operating under this Agreement.

14. SEVERABILITY

Should any part, term, portion or provision of this Agreement or the application thereof to any person or circumstance be held to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or circumstances, shall be deemed severable and shall not be affected thereby, provided that said remaining portions or provisions can be construed in substance to constitute the full Agreement that the parties intended to enter into in the first instance.

15. AMENDMENTS

No alteration, modification, or variation of the terms of this Agreement shall be valid unless made in writing and executed by both parties.

16. WAIVER

Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right hereunder.

17. INTERPRETATION

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The headings herein are for convenience only and shall not affect construction or interpretation of the Agreement. Construction and interpretation of this Agreement and the Revocable Permit issued pursuant to this Agreement shall be governed by California law. Venue for any action concerning this Agreement or the Revocable Permit issued pursuant to this Agreement shall be Sacramento County, California. This Agreement and the Revocable Permit issued pursuant to this Agreement shall at all times be subject to the provisions of Sacramento City Code Chapter 12.04, as such chapter may be amended from time to time.

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18. UTILITIES

A. Acceptance of Utilities. Permittee agrees to inspect the Premises prior to the issuance of the Revocable Permit to verify the adequacy and availability of utilities to the Premises. By accepting the Revocable Permit, Permittee agrees and acknowledges that it is satisfied with utility service to the Premises, and that such utilities are adequate for the operations of Permittee on the Premises. Permittee shall pay for all utilities used by it at the Premises. Housing Authority agrees to cooperate with Permittee in Permittee's efforts to obtain utilities from any location provided by Housing Authority or the servicing utility. The cost of improving or constructing any utility service to the Premises for Permittee's use shall be the sole and exclusive expense of Permittee. Housing Authority acknowledges that Permittee provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If any interruption in power is for an extended period of time, in Permittee's reasonable determination, Housing Authority agrees to allow Permittee the right to bring in a temporary source of power for the duration of the interruption.

B. Relocation. Where utility relocation is required either because of the Permittee's construction or installation of its WTF, or by virtue of a subsequent Housing Authority issued permit(s), the entire utility relocation cost shall be payable by the permittee whose telecommunication facilities required the relocation. At no additional cost to Permittee or the applicable public utility, Housing Authority hereby grants to any utility company providing utility services to Permittee rights over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such utility companies may from time to time require in order to provide such services to the Premises.

19. HAZARDOUS MATERIALS

A. Housing Authority represents that (i) it has no knowledge of any substance, chemical or waste (collectively, "Substance") on the Premises identified as hazardous, toxic or dangerous in any applicable federal, state, or local law or regulation. Permittee shall not introduce or use any such Substance on the Premises in violation of any applicable law, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Housing Authority and Permittee agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker

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health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

B. Housing Authority and Permittee agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("**Claims**"), to the extent arising from that party's breach of its obligations or representations under Section 19(a). Housing Authority agrees to hold harmless and indemnify Permittee from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Housing Authority for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the effective date of this Agreement or from such contamination caused by the acts or omissions of Housing Authority during the Term. Permittee agrees to hold harmless and indemnify Housing Authority from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Permittee for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Permittee.

C. The indemnifications of this Section 19 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 19 will survive the expiration or termination of this Agreement.

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

E. Permittee shall be responsible for the complete cost of removal and/or remediation of any such Substance introduced by Permittee as may be required by any applicable federal, state, or local law or regulation.

20. ATTORNEYS' FEES

The prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive

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its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

21. ENTIRE AGREEMENT

This Agreement, and the Revocable Permit issued pursuant to this Agreement, and the attachments hereto, constitute the entire Agreement between the parties concerning the subject matter thereof.

22. BINDING ON SUCCESSORS

The provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors, heirs, and assigns of the parties hereto.

23. RELOCATION ASSISTANCE

Permittee acknowledges it is not entitled to any relocation assistance payments at the conclusion of this Agreement, or the conclusion of the Revocable Permit issued pursuant to this Agreement, under State or federal law (California Government Code Section 7260 et seq. and 42 USC 4601 et seq., respectively) and Permittee further agrees that it will not file or pursue any such claim.

24. PUBLIC RECORDS

Permittee acknowledges that this Agreement and the Revocable Permit, and all exhibits or attachments hereto, are public records and thus may be disclosed to members of the public pursuant to the Public Records Act (California Government Code Section 6250 et seq.) as such act may be amended from time to time.

25. AUTHORITY

By executing this Agreement, Permittee and Housing Authority warrant and represent that it has the right, power and legal authority to enter into this Agreement. Within thirty (30) days of the Effective Date, Permittee shall provide to Housing Authority a certificate executed by the Permittee's corporate secretary, or equivalent authorized person, stating that Permittee is an entity in good standing in its state of origin licensed to do business in California and that Permittee has obtained all necessary local, state, and federal licenses as may be necessary to operate the WTF and business operations contemplated by this Agreement. The person signing this Agreement for Permittee or Housing Authority hereby represents and warrants that he or she is authorized to sign this Agreement on behalf of that party.

26. CONDEMNATION. In the event Housing Authority receives notification of

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any condemnation proceedings affecting the Property, Housing Authority will provide notice of the proceeding to Permittee within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Permittee's sole determination, to render the Premises unsuitable for Permittee, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Permittee will include, where applicable, the value of its WTF, moving expenses, prepaid Annual Fee, and business dislocation expenses. Permittee will be entitled to reimbursement for any prepaid Annual Fee on a pro rata basis.

27. CASUALTY. Housing Authority will provide notice to Permittee of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the structures and equipment or Property is damaged by casualty or other harm as to render the Premises unsuitable, in Permittee's sole determination, then Permittee may terminate this Agreement by providing written notice to Housing Authority, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Permittee will be entitled to collect all insurance proceeds payable to Permittee on account thereof and to be reimbursed for any prepaid Annual Fee on a pro rata basis. Housing Authority agrees to permit Permittee to place temporary transmission and reception facilities on the Property, but only until such time as Permittee is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Annual Fee. If Housing Authority or Permittee undertakes to rebuild or restore the Premises and/or the structures and equipment, as applicable, Housing Authority agrees to permit Permittee to place temporary transmission and reception facilities on the Property at no additional Annual Fee until the reconstruction of the Premises and/or the structures and equipment is completed. If Housing Authority determines not to rebuild or restore the Premises, Housing Authority will notify Permittee of such determination within thirty (30) days after the casualty or other harm. If Housing Authority does not so notify Permittee, then Housing Authority will promptly rebuild or restore the Premises to substantially the same condition as existed before the casualty or other harm. Housing Authority agrees that the Annual Fee shall be abated until the Premises are rebuilt or restored, unless Permittee places temporary transmission and reception facilities on the Property.

28. WAIVER OF HOUSING AUTHORITY'S LIENS. Housing Authority waives any and all lien rights it may have, statutory or otherwise, concerning the structures and equipment or any portion thereof. The structures and equipment shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Housing Authority consents to Permittee's right to remove all or any portion of the structures and equipment from time to time in Permittee's sole discretion and without Housing Authority's consent.

29. WARRANTIES. Housing Authority represents, warrants and agrees that: (i) Housing Authority solely owns the Property as a legal lot in fee simple (ii) the Property is

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not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would materially and adversely affect Permittee's use and enjoyment of the Premises under this Agreement; (iii) as long as Permittee is not in default then Housing Authority grants to Permittee sole, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iv) Housing Authority's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Housing Authority.

30. COMPLIANCE WITH LAWS. Permittee agrees to comply with all federal, state and local laws, orders, rules and regulations ("Laws") applicable to Permittee's use of the WTF on the Property. Housing Authority agrees to comply with all laws relating to Housing Authority's ownership and use of the Property and any improvements on the Property in a manner sufficient to provide to Permittee continued use of the Premises and all of the other rights expressly granted to Permittee herein.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

Initials: HOUSING AUTHORITY: _____

PERMITTEE: _____

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PERMITTEE:

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

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: _____
Title: _____
Dated: _____

HOUSING AUTHORITY:

**HOUSING AUTHORITY OF THE CITY OF
SACRAMENTO**

LaShelle Dozier, Executive Director

Dated: _____

APPROVED AS TO FORM:

By: _____
Agency Counsel

EXHIBIT A

Legal Description

**THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA,
COUNTY OF SACRAMENTO, CITY OF SACRAMENTO, AND IS DESCRIBED AS
FOLLOWS:**

LOTS 5 AND 6 IN THE BLOCK BOUNDED BY 17TH AND 18TH, "J" AND "K" STREETS OF THE
CITY OF SACRAMENTO, ACCORDING TO THE OFFICIAL PLAT THEREOF.

APN: 006-0125-014

EXHIBIT B

Final Site Plans

[100% Construction Drawings, Dated April 4, 2014, Created By Streamline Engineering and Design, Inc. Consisting Of Fifteen (15) Pages]

EXHIBIT C

Certificates of Insurance

[To Be Attached]