

Market: PNW (OR)
Cell Site Number: PD31
Cell Site Name: Bethany Crest
Fixed Asset Number: 10576578

OPTION AND LAND LEASE AGREEMENT

THIS OPTION AND LAND LEASE AGREEMENT (“**Agreement**”), dated as of the latter of the signature dates below (the “**Effective Date**”), is entered into by Robert L. Zahler and Steven L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust under agreement dated May 26, 2015, having a mailing address of 13937 NW Springville Road, Portland, OR 97229 (“**Landlord**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE 3rd Floor, Atlanta, GA 30319 (“**Tenant**”).

BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, as described on **Exhibit 1**, together with all rights and privileges arising in connection therewith, located at 13937 NW Springville Rd, Portland (Parcel No. R324301; Map No. 1N1W16C00100), in the County of Multnomah, State of Oregon 97229 (collectively, the “**Property**”). Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. OPTION TO LEASE.

(a) Landlord grants to Tenant an exclusive option (the “**Option**”) to lease a certain portion of the Property containing approximately 2,500 square feet including the air space above such ground space, as described on attached **Exhibit 1**, (the “**Premises**”), for the placement of a Communication Facility in accordance with the terms of this Agreement.

(b) During the Option Term, and during the Term, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the “**Tests**”), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant’s sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the “**Government Approvals**”), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant’s sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord’s title to the Property and the feasibility or suitability of the Premises for Tenant’s Permitted Use, all at Tenant’s expense. Tenant agrees to share all findings and test results from inspection, examinations, soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property with Landlord as soon as reasonably practicable, or within ninety (90) days of a written request for same from Landlord. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Tenant’s control excepted.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of [REDACTED] within thirty (30) business days after the Effective Date. The Option may be exercised during an initial term of one (1) year commencing on the Effective Date (the “**Initial Option Term**”) which term may be extended by Tenant for an additional one (1) year (the “**Renewal Option Term**”) upon written notification to Landlord and Tenant’s payment to Landlord of an additional [REDACTED] no later than thirty (30) days prior to

the expiration date of the Initial Option Term. The Initial Option Term and any Renewal Option Term are collectively referred to as the “**Option Term.**”

(d) The Option may be sold, assigned or transferred at any time by Tenant without the written consent of Landlord. Upon notification to Landlord of such sale, assignment or transfer and assumption by the transferee of Tenant’s obligations under this Agreement, Tenant shall immediately be released from any and all liability under this Agreement, including the payment of any rental or other sums due after the date that Tenant notifies Landlord of the sale, assignment, or transfer, without any further action.

(e) During the Option Term, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option, then Landlord leases the Premises to Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Initial Option Term or the permitted extension thereof, then this Agreement will terminate, and Tenant agrees to return and leave the Premises in a near pre-Option conditions as reasonably possible including filling all geotechnical borings, excavated holes or other disturbances to the soil, and repairing or replacing any damage to the asphalt paving to the access easement road extending north from NW Springville on Bonneville Power Administration (“**BPA**”) land or Landlord’s Surrounding Property to the point where the access private road will be extending east under the BPA power lines to the Premises. Upon Tenant’s satisfactory completion of the foregoing conditions the parties will have no further liability to each other.

(f) If during the Option Term, or during the Term if the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, the Property or any of Landlord’s contiguous, adjoining or surrounding property (the “**Surrounding Property**”), or in the event of a threatened foreclosure on any of the foregoing, Landlord shall immediately notify Tenant in writing. In the event the zoning of the Premises changes or is selected for future inclusion in the Urban Growth Boundary (“**UGB**”) or UGB study area, the Landlord will cooperate, to the extent reasonable, as determined in Landlord’s sole discretion, with the Tenant to preserve necessary buffer zone and setback requirements for continued use of the Premises for the Communication Facility operations. If Landlord subdivides the Property, then Landlord will use commercially reasonable efforts to cause the Premises to become a separate legal unit of land, or to be entirely contained within a separate legal unit of land, and will offer that separate unit of land, when created, to Tenant for purchase at the then market value for such additional rezoned land.

(g) Tenant acknowledges the Premises and Surrounding Property are currently zoned Exclusive Farm Use by Multnomah County and is aware that the Landlord has been pursuing rezoning to a higher, more intensive residential zoning for the past thirty (30) years. Directly west of the Premises are residential subdivisions in Washington County, similar in nature and density to the uses that Multnomah County is likely to allow if the Property is rezoned to an urban use. Tenant agrees to cooperate with Landlord to the extent necessary, not to oppose, resist, or appeal any future zone change and to work with Landlord to preserve continued use of the Premises for its Communication Facility operation.

2. PERMITTED USE. Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure (“**Structure**”), associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (the “**Communication Facility**”), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, (collectively, the “**Permitted Use**”). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant’s Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord’s execution of this Agreement will signify Landlord’s approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of the Surrounding Property as may reasonably be required during construction and installation of the Communication Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and

communication lines from the Property's main entry point to the equipment shelter or cabinet, install a generator and to make other improvements, alterations, upgrades or additions appropriate for Tenant's Permitted Use, including the right to construct a fence around the Premises or equipment, install warning signs to make individuals aware of risks, install protective barriers, install any other control measures reasonably required by Tenant's safety procedures or applicable law, and undertake any other appropriate means to secure the Premises or equipment at Tenant's expense. Tenant has the right to modify, supplement, replace, upgrade, expand the Communication Facility (including, for example, increasing the number of antennas or adding microwave dishes) or relocate the Communication Facility within the Premises at any time during the Term. Tenant will be allowed to make such alterations to the Premises in order to ensure that the Communication Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Tenant desires to modify or upgrade the Communication Facility, in a manner that requires an additional portion of the Property (the "**Additional Premises**") for such modification or upgrade, Landlord agrees, but may deny at Landlord's sole discretion, to lease to Tenant the Additional Premises. Rent for Additional Premises shall be the amount determined as the then fair market rental rate. Landlord agrees to take such reasonable actions as determined in their sole discretion to be in their best interest in entering into a lease for Additional Premises. Such reasonable actions to include accepting for review such Tenant delivered documents as Tenant determines as reasonable in order to effect and memorialize the lease of the Additional Premises to Tenant. Lease of Additional Premises will occur in the event that Landlord and Tenant arrive at mutually agreeable terms.

3. TERM.

(a) The initial lease term will be five (5) years (the "**Initial Term**"), commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option (the "**Term Commencement Date**"). If the Initial Term commences on other than the first day of a calendar month, then the Initial Term will also include the partial calendar month from the Term Commencement Date to the last day of the calendar month, so that the last day of the Initial Term will be the last day of a calendar month.

(b) This Agreement will automatically be extended for four (4) additional five (5) year term(s) (each additional five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions set forth herein including the rent increases described in Section 4(b) below, unless Tenant notifies Landlord in writing of Tenant's intention not to extend this Agreement at least sixty (60) days prior to the expiration of the Initial Term or the then-existing Extension Term.

(c) Unless (i) Landlord or Tenant notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter (each an "**Annual Term**") until terminated by either party hereto by giving to the other party hereto written notice of its intention to so terminate at least six (6) months prior to the end of the then-current Annual Term. Monthly rent during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term, increased in accordance with the terms of Section 4(b) below. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the "**Term**."

4. RENT.

(a) Commencing on the first day of the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay Landlord on or before the fifth (5th) day of each calendar month in advance, [REDACTED] (the "**Rent**"), at the address set forth above. In any partial month occurring after the Rent Commencement Date, the Rent will be prorated.

(b) On each anniversary of the Rent Commencement Date during the Term, the monthly Rent will increase by [REDACTED] over the Rent paid during the previous year.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within thirty (30) days in which the charges were incurred or first made known to Landlord, but Landlord's failure to promptly bill Tenant for those charges is not a waiver by Landlord of Landlord's right to collect the charges. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of this Agreement.

5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises and Property for the Permitted Use and Tenant's ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for the Permitted Use and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals. Tenant agrees to share all Government Approvals, denials and all responses related to all applications required for the Permitted Use as soon as reasonably practical, or within ninety (90) days of a written request for same from Landlord. Tenant must immediately notify Landlord of any decision to retract or withdrawn any application related to the Permitted Use or of Tenant's decision to not move forward with the Permitted Use.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and at Tenant's expense and to have the Property surveyed by a surveyor of its choice, also at Tenant's expense.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals. Tenant agrees to share all findings, test results and Government Approvals from inspection, examinations, soil borings, drainage testing, material sampling, and other geological or engineering tests or studies or investigations that relate to the physical condition of the Property with Landlord as soon as reasonably practicable, or within ninety (90) days of a written request for same from Landlord. This provision does not require Tenant to share information about radio frequency testing or other information that does not describe the physical condition of the Property itself.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any termination provision contained in any other Section of this Agreement, including the following: Section 5 Approvals, Section 6(a) Termination, Section 6(b) Termination, Section 6(c) Termination, Section 6(d) Termination, Section 11(d) Environmental, Section 18 Condemnation or Section 19 Casualty.

7. INSURANCE. During the Option Term and throughout the Term, Tenant will carry and maintain in effect a commercial general liability policy insuring Tenant against claims for personal injury and property damage arising from or relating to Tenant's operations on and near the Premises, and including the obligation to

provide a defense to all such claims and include Landlord as an additional insured by endorsement as respects to this agreement. Tenant will provide copy of the general liability policy or certificate of general liability policy which includes or names Landlord as additional insured by endorsement prior to or concurrent with Landlord's execution of this Agreement. Said policy of commercial general liability insurance per ISO form CG 00 01 or equivalent covering liability arising from premises, operations, personal injury, products/completed operations, and contractual liability will provide a combined single limit of [REDACTED] per occurrence and [REDACTED] in the aggregate. Notwithstanding the foregoing, as long as Tenant is a publicly-traded corporation with a tangible net worth (including cash and receivables net of debt excluding goodwill, going-concern value, intellectual property rights, and other intangible property) of more than [REDACTED] as reported to the Securities and Exchange Commission, Tenant shall have the right to self-insure such general liability coverage, including its obligation to defend, indemnify, and hold Landlord harmless from all such claims.

8. INTERFERENCE.

(a) Prior to or concurrent with the execution of this Agreement, Landlord has provided or will provide Tenant with a list of radio frequency user(s) and frequencies used on the Property as of the Effective Date. Tenant warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Property, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the Effective Date, a lease, license or any other right to any third party, if the exercise of such grant may in any way adversely affect or interfere with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will not, nor will Landlord permit its employees, tenants, licensees, invitees, agents or independent contractors to interfere in any way with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord 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.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

9. INDEMNIFICATION.

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, damage to, repair or removal of the Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, invitees, agents or independent contractors.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord, its employees, invitees, agents or independent contractors, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section 9 and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying

party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

10. WARRANTIES.

(a) Each of Tenant and Landlord (to the extent not a natural person) each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power, and authority or capacity, as applicable, to enter into this Agreement and bind itself hereto through the party or individual set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is 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 adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement, except as provided in Section 1(f) Option to Lease; (iii) Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises in accordance with the terms of this Agreement without hindrance or ejection by any persons lawfully claiming under Landlord; (iv) Landlord'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 Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, then Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement (an "SNDA") executed by Landlord and the holder of such security interest. This provision does not require the Landlord to provide an SNDA from a lender whose security interest does not encumber the Premises, as for instance if the Property should be subdivided and the owners of units of land outside the Premises pledge their lots or parcels as security for loans.

11. ENVIRONMENTAL.

(a) Landlord represents and warrants, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Premises, as of the Effective Date, are free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant 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 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) Landlord and Tenant 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 11(a). Landlord agrees to hold harmless and indemnify Tenant from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Landlord 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 or from such contamination caused by the acts or omissions of Landlord during the Term. Tenant agrees to hold harmless and indemnify Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant 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 Tenant or Tenant's employees, agents, and contractors.

(c) The indemnification provisions contained in this Section 11 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 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or other third party, then Tenant 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 Landlord.

12. ACCESS.

(a) At all times throughout the Term of this Agreement, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access ("Access") to and over the Property, from an open and improved public or private road (aka Dobbs Road) which runs along or on the edge of the strip of land owned by Bonneville Power Administration ("BPA") to the Property and then on a private driveway through the BPA one hundred foot (100') wide strip and the Property to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. As may be described more fully in **Exhibit 1**, Landlord grants to Tenant an easement for such Access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such Access to Tenant. Upon Tenant's request, Landlord will execute a separate recordable easement evidencing this right. Landlord will reserve the right to relocate the path of Access through the Property in any reasonable manner and, will provide Tenant ninety (90) days written notice of such relocation in connection with a subdivision or partition of the Property, in which case Landlord will improve the replacement path of Access to the same standard as the former path. Landlord shall execute a letter granting Tenant Access to the Property substantially in the form attached as **Exhibit 12**; upon Tenant's request, Landlord shall execute additional letters during the Term. If Tenant elects to utilize an Unmanned Aircraft System ("UAS") in connection with its installation, construction, monitoring, site audits, inspections, maintenance, repair, modification, or alteration activities at a Property, Landlord hereby grants Tenant, or any UAS operator acting on Tenant's behalf, express permission to fly over the applicable Property and Premises, subject, however, to any law or regulation that may limit the height of overflights if the Property is subdivided and developed, and consents to the use of audio and video navigation and recording in connection with the use of the UAS. Landlord acknowledges that in the event Tenant cannot obtain Access to the Premises, Tenant shall incur significant damage. If Landlord fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement.

(b) Tenant agrees to pay a prorated portion of expenses, as determined by all property owners using the access road, related to periodic repair and maintenance of the currently paved access easement road extending north from NW Springville on BPA land or Landlord's Surrounding Property. Tenant shall pay its prorated portion of such expenses directly to the person or entity responsible for maintaining the road, or shall reimburse Landlord for the amount Landlord pays to such person or entity on Tenant's behalf. Tenant and Landlord agree ownership of land over which the access road traverses has no bearing on responsibility for road repair and maintenance, as historically repair and maintenance expenses have been the sole responsibility of the property owners who use and rely upon the road to access their properties.

13. REMOVAL/RESTORATION. All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of Tenant and may be removed by Tenant at any time during the Term. Tenant will repair any damage to the Property resulting from Tenant's removal activities. Any and all portions of the Communication Facility, including all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises, that are on the Property at termination of the Option or Lease or cessation of operations at the Premises, shall be entirely removed by Tenant, and Tenant will return the Premises to as near to its original state as reasonably possible, within one hundred twenty (120) days after expiration or termination of this Agreement, at the sole cost of Tenant. Removal includes all concrete or any other underground foundation materials, conduit, equipment or other improvements to a minimum depth

of at least three (3) feet below typical ground elevation as noted by Tenant construction drawings. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation. Tenant acknowledges and agrees if Tenant fails to fully comply with this Section by removing all Communication Facility improvements of every kind and nature erected or placed by Tenant on the Premises after termination of the Option, Lease or cessation of operations to return as near to its original state as reasonably possible to Landlord's reasonable satisfaction, the Tenant will be liable for and agrees to pay or reimburse Landlord fully for any and all additional costs required to remove any and all such improvements remaining on the Premises including all concrete or any other underground foundation materials, conduit, equipment or other improvements to a minimum depth of at least three (3) feet below typical ground elevation as noted by Tenant construction drawings.

14. MAINTENANCE/UTILITIES.

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted.

(b) Tenant will be responsible for paying on a monthly or quarterly basis, or as billed to Tenant by the utility provider, all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to sub-meter from Landlord. When sub-metering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Tenant shall reimburse Landlord for such utility usage at the same rate charged to Landlord by the utility service provider. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within sixty (60) days of receipt of the usage data and required forms. Tenant and Landlord shall maintain accurate and detailed records of all utility expenses, invoices and payments applicable to Tenant's reimbursement obligations hereunder. Within fifteen (15) days after a request from either Tenant or Landlord, the party receiving the request shall provide copies of such utility billing records to the requestor in the form of copies of invoices, contracts, and cancelled checks. If the utility billing records reflect an overpayment or underpayment by Tenant, Tenant shall have the right to deduct the amount of such overpayment from any monies due to Landlord from Tenant or Tenant shall pay the amount of any such underpayment with the next monthly rent payment due to the Landlord.

(c) Any utility fee recovery by Landlord is limited to a twelve (12) month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least twenty-four (24) hours advance notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant 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 the interruption is for an extended period of time, in Tenant's reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord. Tenant acknowledges that Landlord is not Tenant's electricity service provider.

(d) Tenant will have the right to install utilities, at Tenant's expense, and to improve present utilities on the Property and the Premises. Landlord hereby grants to any service company providing utility or similar services, including electric power and telecommunications, to Tenant an easement over the Property, from an open and improved public road to the Premises in a location reasonably acceptable to Landlord, 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 service companies may from time to time require in order to provide such services to the Premises. Upon Tenant's or service company's request, Landlord will execute a separate recordable easement evidencing this grant, at no cost to Tenant or the service company.

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Landlord of such failure to pay by the fifth (5th) day of any calendar month; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after written notice from Landlord specifying

the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default other than in the payment of Rent will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, then Landlord will have: (i) the right to cure Tenant's default when and where applicable and to add the costs of such cure to any monies due monthly, such as rent to Landlord from Tenant; and/or (ii) any and all other rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to provide Access to the Premises as required by Section 12 within twenty-four (24) hours after written notice of such failure, if the failure to provide Access is reasonably curable by Landlord; (ii) Landlord's failure to cure an interference problem as required by Section 8 within twenty-four (24) hours after written notice of such failure, if the problem is reasonably curable by Landlord; or (iii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord 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 Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

16. ASSIGNMENT/SUBLEASE.

(a) Tenant will have the right to assign this Agreement or sublease the Premises and its rights herein, in whole or in part, with Landlord's consent, which will not be unreasonably withheld, conditioned or delayed. Notwithstanding the forgoing to the contrary, Tenant will have the right to assign, sell or transfer its interest under this Agreement, in whole or in part, without Landlord's consent, to: (a) Tenant's Affiliate (as defined in Section 24(i) below); (b) any entity with a tangible net worth of at least Twenty Million Dollars (\$20,000,000); (c) any entity that acquires all or substantially all of the Tenant's assets in the market (as defined by the Federal Communications Commission) in which the Property is located; or (d) an entity whose primary business is managing and maintaining wireless communications towers. Upon notification to Landlord of such assignment and upon the assignee's assumption of Tenant's obligations under this Agreement, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

(b) Tenant shall pay Landlord an amount equal to twenty-five percent (25%) of the revenue Tenant receives for each additional carrier that collocates on Tenant's tower ("**Collocator**"). New Cingular Wireless PCS, LLC, including its Affiliates, is considered the anchor tenant ("**Anchor Tenant**") on the Communication Facility. As such, notwithstanding any possible assignment or conveyance of this Agreement or interest in the Communication Facility by the Anchor Tenant to a third party, in no event will the Anchor Tenant ever be considered or interpreted to be a Collocator under this Section (b) for purposes of payment of Landlord's revenue share.

17. NOTICES. All notices, requests and demands 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 hereto as follows:

If to Tenant: New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: PD31; Cell Site Name: Bethany Crest (**OR**)
Fixed Asset #: 10576578
1025 Lenox Park Blvd NE, 3rd Floor
Atlanta, GA 30319

With a copy to: New Cingular Wireless PCS, LLC
Attn: Legal Dept - Network Operations
Re: Cell Site #: PD31; Cell Site Name: Bethany Crest (OR)
Fixed Asset #: 10576578
208 S. Akard Street
Dallas, TX 75202-4206

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

If to Landlord: Robert L. Zahler
13937 NW Springville Road
Portland, OR 97229

Either party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other party hereto as provided herein.

18. CONDEMNATION. In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within twenty-four (24) hours. If a condemning authority takes all of the Premises, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, 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 Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a *pro rata* basis. Landlord shall bear no responsibility for any costs, losses or any other damages Tenant may claim related to any such condemnation proceedings.

19. CASUALTY. Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within twenty-four (24) hours of Landlord learning of the casualty or other harm, but this provision does not impose on Landlord any duty to inspect the Premises or the Communication Facility. If any part of the Communication Facility or the Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Premises, but only until such time as Tenant 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 Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord may under separate agreement concurrent with such need to rebuild or restore the Premises, permit Tenant to place temporary transmission and reception facilities on the Property until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant and Tenant decides not to terminate under this Section 19, then Tenant may promptly rebuild or restore any portion of the Property and/or Access interfering with or required for Tenant's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm.

20. WAIVER OF LANDLORD'S LIENS. Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. TAXES.

(a) Landlord shall be responsible for (i) all taxes and assessments levied upon the lands, improvements and other property of Landlord including any such taxes that may be calculated by a taxing authority using any method, including the income method, (ii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with this Agreement, and (iii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with a sale of the Property or assignment of Rent payments by Landlord. Tenant shall be responsible for (y) any taxes and assessments attributable to and levied upon Tenant's leasehold improvements on the Premises, including the Communications Facility, as set forth in this Section 21 and (z) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with an assignment of this Agreement or sublease by Tenant. Nothing herein shall require Tenant to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature, that is or may be imposed upon Landlord.

(b) In the event Landlord receives a notice of assessment with respect to which taxes or assessments are imposed on Tenant's leasehold improvements on the Premises, Landlord shall provide Tenant with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice of assessment. If Landlord does not provide such notice or notices to Tenant in a timely manner and Tenant's rights with respect to such taxes are prejudiced by the delay, Landlord shall reimburse Tenant for any increased costs directly resulting from the delay and Landlord shall be responsible for payment of the tax or assessment set forth in the notice, and Landlord shall not have the right to reimbursement of such amount from Tenant. If Landlord provides a notice of assessment to Tenant within such time period and requests reimbursement from Tenant as set forth below, then Tenant shall reimburse Landlord for the tax or assessments identified on the notice of assessment on Tenant's leasehold improvements, which has been paid by Landlord immediately upon receipt of notice of such tax or assessment payment by Landlord, but in no event later than thirty (30) days after the receipt of such reimbursement request. If the Tenant does not provide reimbursement in such timely manner the standing reimbursement amount will accrue interest at the rate of one half of one percent (0.5%) for each day reimbursement is past due after the thirty (30) day payment period, except as allowed in the case of appeal by Tenant. If Landlord seeks reimbursement from Tenant, Landlord shall, no later than thirty (30) days after Landlord's payment of the taxes or assessments for the assessed tax year, provide Tenant with written notice including evidence that Landlord has timely paid same, and Landlord shall provide to Tenant any other documentation reasonably requested by Tenant and deemed as reasonably attainable from the tax authority by Landlord, to allow Tenant to evaluate the payment and to reimburse Landlord. Such other documentation requests shall not be construed as or considered reasonable allowance for delay of tax reimbursement payment due to Landlord.

(c) For any tax amount for which Tenant is responsible under this Agreement, Tenant shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as permitted by law. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents required therefor. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant, to the extent the amounts were originally paid by Tenant. In the event Tenant notifies Landlord by the due date for assessment of Tenant's intent to contest the assessment, Landlord shall not pay the assessment pending conclusion of the contest, unless required by applicable law.

(d) Landlord shall not split or cause the tax parcel on which the Premises are located to be split, bifurcated, separated or divided in a manner that would cause the Premises to be all or part of two separate tax parcels without the prior written consent of Tenant. This provision does not require Landlord to obtain Tenant's consent to a subdivision or partition of the Property after which the Premises will continue to be contained entirely on one tax parcel.

(e) Tenant shall have the right but not the obligation to pay any taxes due by Landlord hereunder if Landlord fails to timely do so, in addition to any other rights or remedies of Tenant. In the event that Tenant exercises its rights under this Section 21(e) due to such Landlord default, Tenant shall have the right to deduct such tax amounts paid from any monies due to Landlord from Tenant as provided in Section 15(b), provided that Tenant may exercise such right without having provided to Landlord notice and the opportunity to cure per Section 15(b).

(f) Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17. Promptly after the Effective Date, Landlord shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant. In the event that Tenant's tax address changes by notice to Landlord, Landlord shall be required to provide Tenant's new tax address to the taxing authority or authorities.

(g) Notwithstanding anything to the contrary contained in this Section 21, Tenant shall have no obligation to reimburse any tax or assessment for which the Landlord is reimbursed or rebated by a third party.

22. SALE OF PROPERTY.

(a) Landlord may sell the Property or a portion thereof to a third party, provided: (i) the sale is made subject to the terms of this Agreement; and (ii) if the sale does not include the assignment of Landlord's full interest in this Agreement, the purchaser must agree to perform, without requiring compensation from Tenant or any subtenant, any obligation of Landlord under this Agreement, including Landlord's obligation to cooperate with Tenant as provided hereunder. Landlord may sell, transfer, change ownership or otherwise convey the Property to any family member, members or related family entity without full and complete adherence to the obligations relating to sale of the Property granted to the Tenant in this Agreement. Specifically for any sale, transfer, change of ownership or conveyance to such family member, members, or related family entity Tenant's first right of refusal does not apply and as listed under Section 22(b) documents i., iii., and iv., will not be sent to Tenant.

(b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or the Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this Section 22(b) to Tenant. Until Tenant receives all such documents, except as allowed under Section 22(a), Tenant's failure to make payments under this Agreement shall not be an event of default and Tenant reserves the right to withhold payments due under this Agreement.

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

(c) Landlord agrees not to sell, lease or use any areas of the Property or the Surrounding Property for the installation, operation or maintenance of other wireless communication facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord or Landlord's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communication facility or equipment. This provision does not require Landlord or any future owner of a subdivided unit of land to seek or obtain Tenant's permission for

ordinary home wireless communications such as home WiFi networks, garage door openers, wireless dog fences, and the like.

(d) The provisions of this Section 22 shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

23. RIGHT OF FIRST REFUSAL. Notwithstanding the provisions contained in Section 22, if at any time after the Effective Date, Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with this Agreement or an offer to purchase an easement with respect to the Premises (“Offer”), Landlord shall immediately furnish Tenant with a copy of the Offer. The Premises consist only of that approximate 2,500 square feet including the air space above such ground space, as described on Exhibit 1, used for the placement of a Communication Facility. If such bona fide written offer from a third party is received in conjunction with or after the Property is included in the UGB or UGB study area, Landlord and Tenant agree to work together as is reasonable given each acting and operating in their own best interest, to preserve Tenant’s desire to continue use of the Premises for Communication Facility operation. This may include Landlord offering to sell or lease to Tenant additional buffer zone or necessary setback expansion of the Premises as required under new zoning code then or to be applicable. Tenant shall have the right within sixty (60) days after it receives such copy to match the prorated financial terms of the Offer, as applicable to the Premises and any necessary expansion of the Premise necessary to preserve continued Communication Facility operation. Such writing shall be in the form of a contract substantially similar to the Offer but Tenant may assign its rights to a third party. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the sixty (60) day period, Landlord may sell, convey, assign or transfer such property interest in or related to the Premises and any expansion of the Premise land area, pursuant to the Offer, subject to the terms of this Agreement. If Landlord attempts to sell, convey, assign or transfer such property interest in or related to the Premises without complying with this Section 23, the sale, conveyance, assignment or transfer shall not affect the rights of Tenant to require the buyer to afford Tenant the rights that this Agreement requires Landlord to afford to Tenant. Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Landlord complies with this Section 23. Tenant’s failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Section 23 with respect to any future proposed conveyances as described herein.

24. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum of Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum of Lease substantially in the form attached as **Exhibit 24(b)**. Either party may record this Memorandum of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term, either party will, at any time upon fifteen (15) business days’ prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord 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.

(d) **Compliance with Law.** Tenant agrees to comply with all federal, state and local laws, orders, rules and regulations (“Laws”) applicable to Tenant’s use of the Communication Facility on the Property. Landlord agrees to comply with all Laws relating to Landlord’s ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term “including” will be interpreted to mean “including but not limited to”; (iii) whenever a party’s consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms “termination” or “expiration” are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate; and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to “Tenant” shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. “Affiliate” means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. “Control” of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **W-9.** As a condition precedent to payment, Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant, including any change in Landlord’s name or address.

(l) **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(m) **Attorneys’ Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including reasonable attorneys’ fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters. This provision will not be construed to entitle any party other than Landlord, Tenant and their respective Affiliates to recover their fees and expenses.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

(o) **No Additional Fees/Incidental Fees.** Unless otherwise specified in this Agreement, all rights and obligations set forth in the Agreement shall be provided by Landlord and/or Tenant, as the case may be, at no additional cost. No unilateral fees or additional costs or expenses are to be applied by either party to the other party, for any task or service including, but not limited to, review of plans, structural analyses, consents, provision of documents or other communications between the parties.

(p) **Further Acts.** Upon request, Landlord will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents, and assurances as Tenant may request from time to time in order to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all transactions and permitted use contemplated by this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the Effective Date.

“LANDLORD”

Robert L. Zahler and Steven L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust under agreement dated May 26, 2015

By: ^{Signed by:} Robert Zahler
59B9F69D9E4E481...

Print Name: Robert L. Zahler

Its: Trustee

Date: 12/20/2024

By: ^{Signed by:} Steven Zahler
59B9F69D9E4E481...

Print Name: Steven L. Zahler

Its: Trustee

Date: 12/20/2024

“TENANT”

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

By: AT&T Mobility Corporation
Its: Manager

By: ^{Signed by:} Wayne Wooten
6034ADFEB8234B3...

Print Name: Wayne Wooten

Its: Director

Date: 12/13/2024

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

EXHIBIT 1
DESCRIPTION OF PROPERTY AND PREMISES
Page 1 of 3

to the Option and Land Lease Agreement dated _____, 20____, by and between Robert L. Zahler and Steven L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust under agreement dated May 26, 2015, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property is legally described as follows:

PARCEL I:

TRACT A:

ALL THE FOLLOWING DESCRIBED PROPERTY EXCEPT THE EASTERLY 1,639.90 FEET THEREOF:

ALL THAT PORTION OF THE SOUTH HALF OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, LYING NORTH OF THE NORTH LINE OF THE JACOB FRENCH D.L.C., AND WESTERLY OF THE NORTHERLY EXTENSION OF THE EAST LINE OF THE SAID JACOB FRENCH D.L.C.

TRACT B:

BEGINNING WHERE THE NORTH LINE OF THE J. R FRENCH D.L.C. IN SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON INTERSECTS THE SECTION LINE BETWEEN SECTIONS 16 AND 17 OF SAID TOWNSHIP/RANGE; THENCE SOUTH 6.32 CHAINS; THENCE SOUTH 87°30' EAST, 13.18 CHAINS; THENCE NORTH 9.38 CHAINS TO THE NORTH LINE OF SAID D.L.C.; THENCE NORTH 88°45' WEST, 12.75 CHAINS TO THE PLACE OF BEGINNING.

TRACT C:

THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON AND BEING A PART OF THE J. R. FRENCH D.L.C. IN SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON AND BEGINNING AT A POST ON THE NORTH OF SAID J. R. FRENCH D.L.C. 33.92 CHAINS EAST OF THE NORTHWEST COMER OF SAID CLAIM; THENCE EAST 10.67 CHAINS TO A POST; THENCE SOUTH 9.38 CHAINS TO A POST THENCE WEST 10.67 CHAINS TO A POST; THENCE NORTH 9.38 CHAINS TO THE PLACE OF BEGINNING.

EXHIBIT 1
DESCRIPTION OF PROPERTY AND PREMISES
Page 2 of 3

PARCEL II:

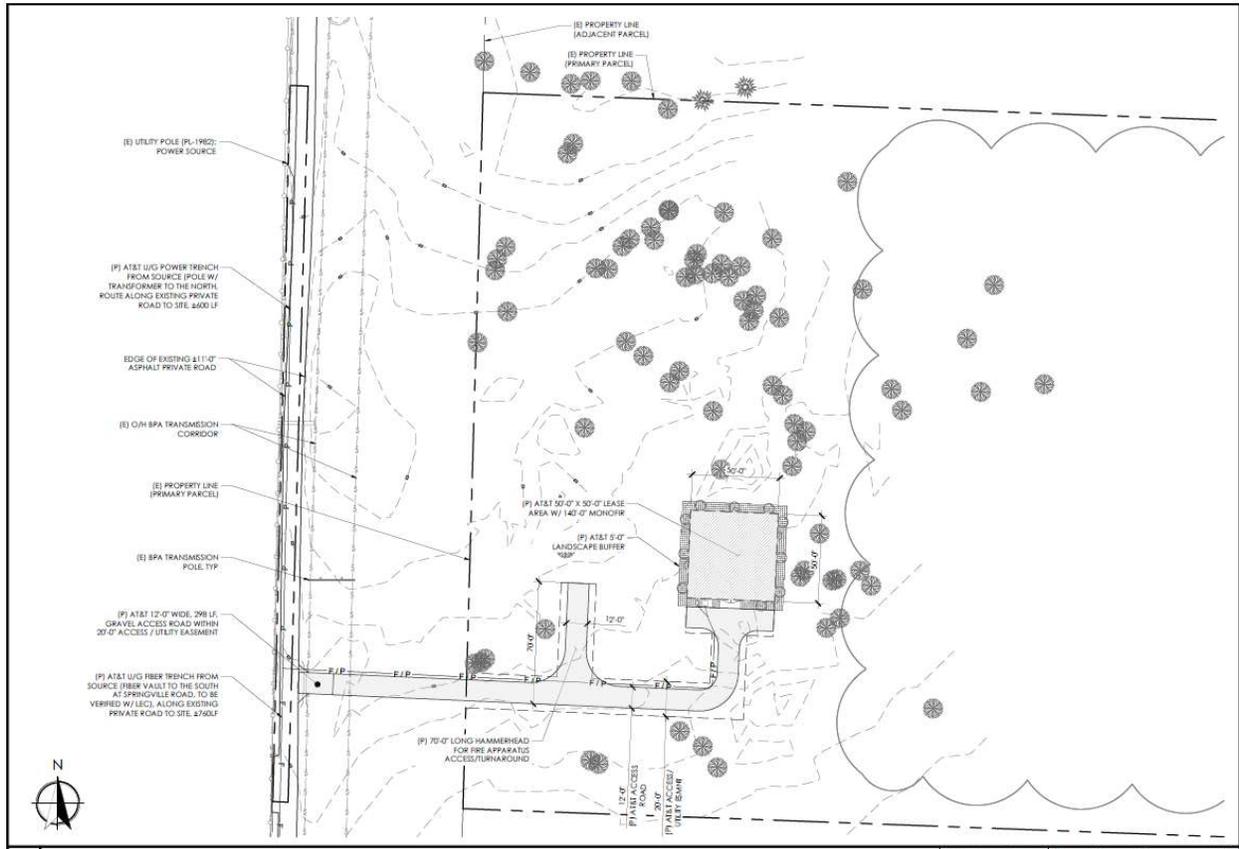
A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS: COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 16; THENCE SOUTH 0°15' EAST ALONG THE WEST LINE OF SAID SECTION, 409.20 FEET TO A POINT; THENCE SOUTH 89° 13' EAST, 1545.72 FEET TO THE NORTHWEST CORNER OF A TRACT DESCRIBED IN DEED RECORDED FEBRUARY 11, 1949 IN BOOK 1319, PAGE 96. MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 0°25'30" EAST ALONG THE WEST LINE OF SAID TRACT TO AN IRON PIPE SET IN THE NORTHERLY LINE OF THE N.W. SPRINGVILLE ROAD, #1328-60 AND THE POINT OF BEGINNING; THENCE SOUTH 89°36' WEST ALONG THE NORTHERN LINE OF SAID ROAD, 193.71 FEET TO A POINT; NORTH 0°25'30" WEST, 224.87 FEET TO A POINT; THENCE NORTH 89°36' EAST, 193.71 FEET TO A POINT; THENCE SOUTH 0°25'30" EAST, 224.87 FEET TO THE POINT OF BEGINNING.

PROPERTY ADDRESS: 13937 NW SPRINGVILLE RD, PORTLAND, OREGON – 97229.

EXHIBIT 1 DESCRIPTION OF PROPERTY AND PREMISES

Page 3 of 3

The Premises are described and/or depicted as follows:



Notes:

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY TENANT.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY'S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE.

EXHIBIT 11

ENVIRONMENTAL DISCLOSURE

Landlord represents and warrants that the Property, as of the Effective Date, is free of hazardous substances except as follows:

None

EXHIBIT 12
STANDARD ACCESS LETTER
[FOLLOWS ON NEXT PAGE]

THIS DOES NOT APPLY

Date: _____

Building Staff / Security Staff
Robert L. Zahler and Steve L. Zahler, Co-Trustees of the
Robert L. Zahler and Gayla G. Zahler Trust
13937 NW Springville Road
Portland, OR 97229

Re: Authorized Access granted to New Cingular Wireless PCS, LLC

Dear Building and Security Staff,

Please be advised that we have signed a lease with New Cingular Wireless PCS, LLC permitting them to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant New Cingular Wireless PCS, LLC and its representatives, employees, agents and subcontractors (“representatives”) 24 hour per day, 7 day per week access to the leased area.

To avoid impact on telephone service during the day, New Cingular Wireless PCS, LLC representatives may be seeking access to the property outside of normal business hours. The representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to leased area. Thank you for your assistance.

Landlord Signature

EXHIBIT 24(b)

MEMORANDUM OF LEASE

[FOLLOWS ON NEXT PAGE]

Return to:

New Cingular Wireless PCS, LLC
Attn: Tower Asset Group - Lease Administration
1025 Lenox Park Blvd NE, 3rd Floor
Atlanta, GA 30319

**MEMORANDUM
OF
LEASE**

Landlord Name: Robert L. Zahler and Steven L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust
Tenant Name: New Cingular Wireless PCS, LLC
Legal Description: Official legal description attached as Exhibit 1
Assessor's Tax Parcel ID #: R324301
County / State Multnomah / Oregon
Cell Site Number / Name: PD31 / Bethany Crest
FA #: 10576578

This Memorandum of Lease is entered into on this ____ day of _____, 20____, by and between Robert L. Zahler and Steven L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust under agreement dated May 26, 2015, with a mailing address of 13937 NW Springville Road, Portland, OR 97229 (hereinafter called "**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE, 3rd Floor, Atlanta, GA 30319 ("**Tenant**").

1. Landlord and Tenant entered into a certain Option and Land Lease Agreement ("**Agreement**") on the ____ day of _____, 20____, for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial lease term will be five (5) years commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option, with four (4) successive automatic five (5) year options to renew.
3. The portion of the land being leased to Tenant and associated easements are described in **Exhibit 1** annexed hereto.
4. The Agreement gives Tenant a right of first refusal in the event Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without

limitation any offer seeking an assignment or transfer of the Rent payments associated with the Agreement or an offer to purchase an easement with respect to the Premises.

- 5. 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.

LANDLORD:

Robert L. Zahler and Steve L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust under agreement dated May 26, 2015

By: _____

Print Name: Robert L. Zahler

Its: Trustee

Date: _____

By: _____

Print Name: Steven L. Zahler

Its: Trustee

Date: _____

TENANT:

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

By: AT&T Mobility Corporation

Its: Manager

By: _____

Print Name: _____

Its: _____

Date: _____

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

TENANT ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20__, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

Notary Public: _____
My Commission Expires: _____

LANDLORD ACKNOWLEDGMENTS

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20__ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20__ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

EXHIBIT 1 TO MEMORANDUM OF LEASE
DESCRIPTION OF PROPERTY AND PREMISES

Page 1 of 3

to the Memorandum of Lease dated _____, 20____, by and between Robert L. Zahler and Steven L. Zahler, Co-Trustees of the Robert L. Zahler and Gayla G. Zahler Trust under agreement dated May 26, 2015, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property is legally described as follows:

PARCEL I:

TRACT A:

ALL THE FOLLOWING DESCRIBED PROPERTY EXCEPT THE EASTERLY 1,639.90 FEET THEREOF:

ALL THAT PORTION OF THE SOUTH HALF OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, LYING NORTH OF THE NORTH LINE OF THE JACOB FRENCH D.L.C., AND WESTERLY OF THE NORTHERLY EXTENSION OF THE EAST LINE OF THE SAID JACOB FRENCH D.L.C.

TRACT B:

BEGINNING WHERE THE NORTH LINE OF THE J. R FRENCH D.L.C. IN SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON INTERSECTS THE SECTION LINE BETWEEN SECTIONS 16 AND 17 OF SAID TOWNSHIP/RANGE; THENCE SOUTH 6.32 CHAINS; THENCE SOUTH 87°30' EAST, 13.18 CHAINS; THENCE NORTH 9.38 CHAINS TO THE NORTH LINE OF SAID D.L.C.; THENCE NORTH 88°45' WEST, 12.75 CHAINS TO THE PLACE OF BEGINNING.

TRACT C:

THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON AND BEING A PART OF THE J. R. FRENCH D.L.C. IN SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON AND BEGINNING AT A POST ON THE NORTH OF SAID J. R. FRENCH D.L.C. 33.92 CHAINS EAST OF THE NORTHWEST COMER OF SAID CLAIM; THENCE EAST 10.67 CHAINS TO A POST; THENCE SOUTH 9.38 CHAINS TO A POST THENCE WEST 10.67 CHAINS TO A POST; THENCE NORTH 9.38 CHAINS TO THE PLACE OF BEGINNING.

**EXHIBIT 1 TO MEMORANDUM OF LEASE
DESCRIPTION OF PROPERTY AND PREMISES**

Page 2 of 3

PARCEL II:

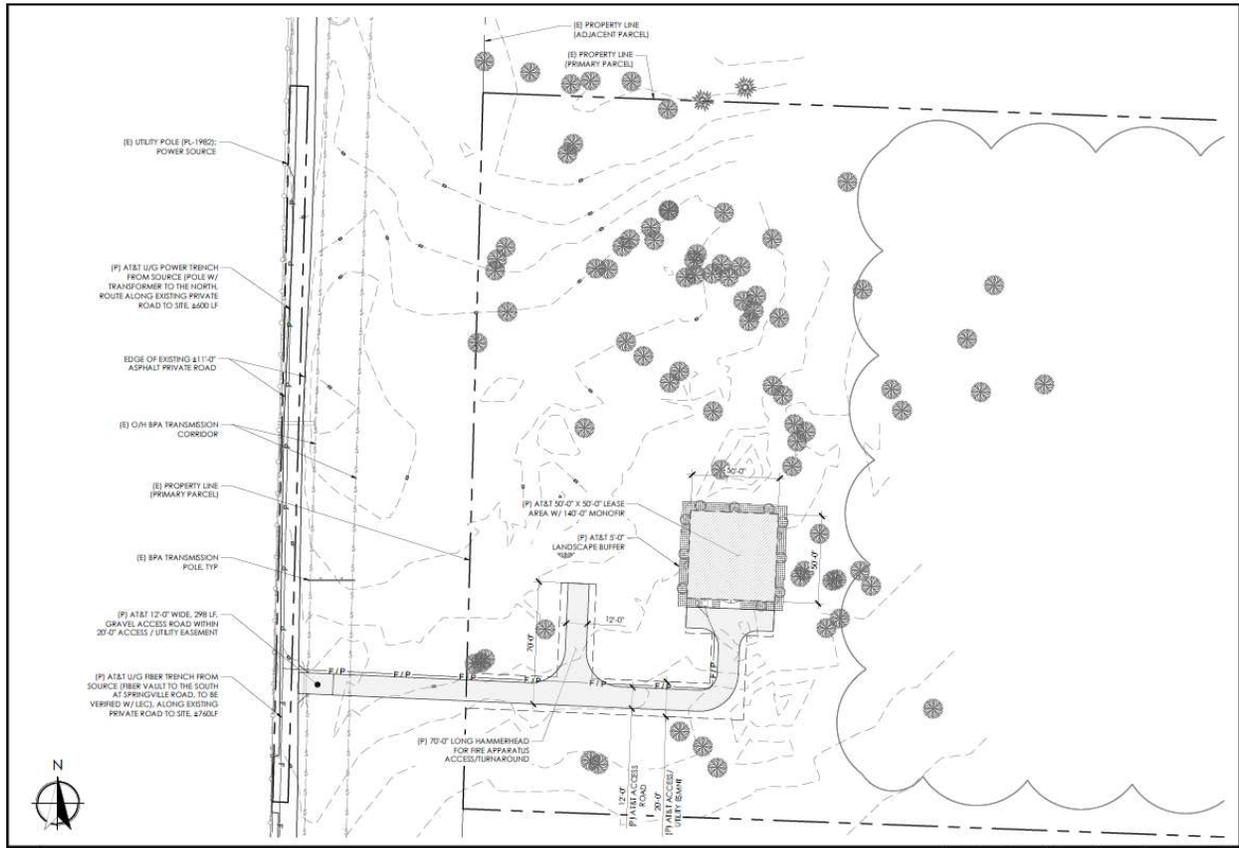
A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS: COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 16; THENCE SOUTH 0°15' EAST ALONG THE WEST LINE OF SAID SECTION, 409.20 FEET TO A POINT; THENCE SOUTH 89° 13' EAST, 1545.72 FEET TO THE NORTHWEST CORNER OF A TRACT DESCRIBED IN DEED RECORDED FEBRUARY 11, 1949 IN BOOK 1319, PAGE 96. MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 0°25'30" EAST ALONG THE WEST LINE OF SAID TRACT TO AN IRON PIPE SET IN THE NORTHERLY LINE OF THE N.W. SPRINGVILLE ROAD, #1328-60 AND THE POINT OF BEGINNING; THENCE SOUTH 89°36' WEST ALONG THE NORTHERN LINE OF SAID ROAD, 193.71 FEET TO A POINT; NORTH 0°25'30" WEST, 224.87 FEET TO A POINT; THENCE NORTH 89°36' EAST, 193.71 FEET TO A POINT; THENCE SOUTH 0°25'30" EAST, 224.87 FEET TO THE POINT OF BEGINNING.

PROPERTY ADDRESS: 13937 NW SPRINGVILLE RD, PORTLAND, OREGON – 97229.

EXHIBIT 1 TO MEMORANDUM OF LEASE DESCRIPTION OF PROPERTY AND PREMISES

Page 3 of 3

The Premises are described and/or depicted as follows:



Notes:

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY TENANT.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY'S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE.