

**BOARD RESOLUTION AUTHORIZING THE  
APPROVAL OF A CELL TOWER LEASE AGREEMENT BETWEEN  
ALPINE SCHOOL DISTRICT AND AT&T WIRELESS**

WHEREAS, it is deemed desirable and in the best interests of the Alpine School District that the following action be taken by the ASD Board of Education, pursuant to this Resolution,

NOW THEREFORE BE IT RESOLVED that, pursuant to applicable law, the Board of Education of the Alpine School District, hereby consent to approve and adopt the following:

**A RESOLUTION AUTHORIZING APPROVAL OF AN AGREEMENT  
BETWEEN ALPINE SCHOOL DISTRICT AND AT&T  
REGARDING A CELL TOWER LEASE AGREEMENT  
LOCATED AT SKYRIDGE HIGH SCHOOL.**

\_\_\_\_\_  
Board President

\_\_\_\_\_  
Date

Market: RMR  
Cell Site Number: UTL04110  
Site Name: TIMPANOGOS HIGHWAY  
Fixed Asset Number: 15141297

## LEASE AGREEMENT WITH OPTION

THIS LEASE AGREEMENT (“Agreement”), WITH OPTION, dated as of the date below, is entered into by The Board of Education of the Alpine School District, a body politic and corporate of the State of Utah (hereinafter referred to as “Landlord”), and New Cingular Wireless PCS, LLC, a Delaware limited liability company corporation (hereinafter referred to as “Tenant”).

### BACKGROUND

Landlord owns that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith, located at 191 E 3200 N Lehi, Utah County, State of Utah (collectively “Property”). The Property being further identified on the Legal Description of the Property attached hereto as Exhibit A. Tenant desires to use a portion of the Property in connection with its federally licensed communications business.

### OPTION

#### 1. OPTION TO LEASE.

(a) In consideration of the payment of \$2,000.00 (the “Option Fee”) by Tenant to Landlord to be paid within sixty (60) business days after the Effective Date, Landlord hereby grants to Tenant an option to lease the certain portion of the Property as described on attached Exhibit B (the “Premises”) on the terms and conditions set forth herein (the “Option”). The Option shall be for a term of 12 months (the “Option Period”), commencing on the date this agreement is executed by the parties (the “Effective Date”).

(b) During the Option Period and during the term of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant’s expense, all licenses and permits or authorizations required for Tenant’s use of the Premises from all applicable government and/or regulatory entities, including, without limitation, zoning and land use authorities, and the Federal Communication Commission (collectively, the “Governmental Approvals”), including appointing Tenant as agent for all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land-use permits, and Landlord expressly grants to Tenant a right of access to the Property, to perform surveys, soils tests, and other engineering procedures or environmental investigations on the Property, necessary to determine that Tenant’s use of the Premises will be compatible with Tenant’s engineering specifications, system design, operations and Governmental Approvals. Tenant agrees to limit and coordinate its access to the Property with Landlord in order to minimize disturbance to the educational process.

(c) During the Option Period Tenant may exercise the Option by so notifying Landlord in writing at Landlord’s address in accordance with Paragraph 19 hereof.

## LEASE

If Tenant exercises the Option, the parties agree as follows:

2. **LEASE OF PREMISES.** Landlord leases to Tenant a certain portion of the Property as described on attached Exhibit B (collectively, "Premises").

3. **PERMITTED USE.** Tenant may use the Premises for the following: (i) transmission and reception of communications signals; (ii) to construct, install, operate, maintain, repair, replace, protect and secure, its communication fixtures and related equipment, cables, accessories and improvements (collectively, the "Communication Facility"); including the right to construct a lattice tower/wireless telephone pole along with any number of associated antennas, an equipment shelter, fencing and any other accessories necessary to the successful and secure operation of the Communication Facility; and (iii) any activities related to the forgoing. Landlord and Tenant agree that Exhibit C shows the initial installation of Tenant and that it does not limit Tenant's rights under this paragraph. Landlord's execution of this Agreement will signify Landlord's approval of Exhibit A, B, and C. Tenant has the right (i) to install and operate transmission cables from the equipment shelter to the antennas, electric lines from the main feed to the equipment shelter, and communication lines from the main entry point to the equipment shelter, and (ii) to erect, construct or make Premises improvements, alterations, or additions appropriate for Tenant's use ("Tenant Changes"). Tenant Changes include the right to construct and maintain a fence around the Premises or undertake any other appropriate means to restrict and secure access to the Premises. Tenant may also 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 Property in order to ensure that the Communication Facility complies with all applicable federal, state or local laws, rules or regulations; provided, however, Tenant acknowledges that the Premises are located on school grounds and in proximity to residential dwellings. Tenant shall construct and maintain the "Communication Facility" in a manner that is in accordance with applicable law. Notwithstanding any other provision of this Agreement, Tenant may not use the Premises in any way which will disrupt or interfere with the maintenance and standard operation of the schools and the promotion of education.

4. **INSTALLATIONS.** Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the Communication Facility on the Property. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Communication Facility within the Premises at any time during the term of this Agreement. Tenant will be allowed to make such alterations to the Premises in order to accomplish Tenant's Changes or to ensure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations.

5. **TERM.**

(a) The initial lease term will be five (5) years ("Initial Term"), commencing upon the Commencement Date, as defined below. The Initial Term will terminate on the last day of the month in which the fifth annual anniversary of the Commencement Date occurred.

(b) This Agreement will automatically renew for up to five (5) additional five (5) year term(s) (each an "Extension Term"), upon the same terms and conditions unless the Tenant notifies the

Landlord in writing of its intention not to renew this Agreement at least sixty (60) days prior to the expiration of the then-existing term.

(c) If Tenant remains in possession of the Premises after the termination or expiration 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. The monthly rental payment during any Holdover Term shall be equal to 150% of the rent amount in effect prior to the commencement of the Holdover Term.

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

## 6. **RENT.**

(a) Commencing on the date that Tenant exercises the Option by providing Landlord with written notification (the "Commencement Date"), Tenant will pay the Landlord in advance an annual rental payment of Twenty Thousand and 00/100 (\$20,000.00) ("Rent"), plus any applicable tax, to Landlord, at the address set forth below, on or before the Commencement Date or the anniversary of the Commencement Date, or to such other person, firm, or place as Landlord may, from time to time, designate in writing at least thirty (30) days in advance of any due date. The initial Rent payment will be forwarded by Tenant to Landlord within ninety (90) days after the Commencement Date.

(b) Tenant shall have the right to use a direct deposit system with regard to Rent payments. Landlord agrees to cooperate with Tenant in providing requisite information to Tenant for such direct deposit. The implementation of the direct deposit system shall be at Tenant's expense.

(c) Each year on the anniversary of the Commencement Date, the annual Rent shall increase by four percent (4%) over the previous year's Rent.

(d) Any Rent which is not received by the Landlord within ten (10) days of the due date shall be subject to interest at the rate of fifteen percent (15%) per annum, compounded daily, computed from the due date of payment.

## 7. **APPROVALS.**

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon its suitability for Tenant's intended use from a technical engineering basis and Tenant's ability to obtain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Tenant for its use of the Premises, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively referred to as "Governmental Approvals"). Landlord specifically authorizes Tenant to prepare, execute and file all necessary or appropriate applications to obtain Governmental Approvals for its use under this Agreement and to reasonably cooperate with the same.

(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 to have the Property surveyed by a surveyor of choice.

(c) Tenant may also obtain, at Tenant's sole cost and expense, soil boring, percolation, engineering procedures, environmental investigation or other tests or reports ("Tests") on, over, and under the Property, necessary to determine if the Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Governmental Approvals.

8. **TERMINATION.** This Agreement may be terminated, without penalty or further liability unless otherwise provided, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Paragraph 17 of this Agreement after the applicable cure periods;

(b) by Tenant on sixty (60) days prior written notice, if Tenant is unable to obtain, maintain, or otherwise forfeits or cancels any required Governmental 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 and hereafter intended by Tenant; or if the Premises become unsuitable for Tenant's operation due to governmental regulations;

(c) by Tenant on sixty (60) days prior written notice, if Tenant's use of the Premises becomes unacceptable based upon technical engineering considerations;

(d) by Tenant immediately upon notice, if destruction or damage to the Premises or the taking thereof (by partial condemnation or otherwise) is sufficient, in Tenant's reasonable judgment, to adversely affect Tenant's use of the Premises; or

(e) by Landlord, in its sole discretion, upon thirty days' prior written notice during any Holdover Term.

(g) If this Agreement is terminated during the Initial Term or during the first Extension Term, for any reason other Landlord's default under Paragraph 17 or for the reasons set forth in paragraph 8(d), Tenant shall pay a termination fee equal to one year of Rent. Otherwise, if this Agreement is terminated for any reason outlined in this paragraph, any prepaid Rent will be refunded on a prorate basis.

9. **INSURANCE.**

(a) Tenant will carry during the Term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost, Tenant may self-insure this risk under the same terms required by this Agreement; (ii) commercial general liability insurance on ISO form CG 00 01 or its substantial equivalent with a limit of liability of \$1,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence and in the aggregate; and (iii) Workers' Compensation Insurance as required by law.

(b) Tenant will include the Landlord, its officers, officials, and employees, , as an additional insured under its commercial general liability policy by endorsement as respects this Agreement. Tenant may satisfy this requirement by obtaining appropriate blanket endorsement to any master policy of liability insurance. Tenant shall provide at least thirty (30) days prior written notice of

termination or cancellation of the policy to the additional insured for any required coverage that is not replaced.

(c) Notwithstanding anything in this Agreement, with respect to all loss, damage, or destruction to the insured party's property occurring during the term of this Agreement, Landlord and Tenant hereby releases and waives all claims (except for willful misconduct and negligence) against the other party, and each of the other party's, employees, agents, officers, and directors. Landlord and Tenant will make a reasonable effort to include in their property insurance policy or policies a waiver of subrogation provision whereby any such release does not adversely affect such policies or prejudice any right of the insured party to recover thereunder. Tenant self-insures its property insurance and in satisfaction of the waiver of subrogation requirement will include Landlord as joint loss payee to the extent of Landlord's insurable interest which would have been covered had Tenant purchased "all risk" property insurance.

(d) Tenant shall provide Landlord with certificates of insurance or its form for self-insurance evidencing the coverage required by this Agreement. Tenant's contractors and subcontractors entering the Property to perform work on behalf of Tenant shall carry insurance that is substantially the same as set forth in Paragraph 9(a) above, and provide evidence of such insurance coverage to Landlord prior to entering the Property. The certificates for each insurance policy shall be signed by the insured's broker authorized by the insured to bind coverage on its behalf. Each insurer shall have a Best's rating of A-: VII or better for the entire term of this Agreement.

#### 10. **INTERFERENCE.**

(a) Where there are prior existing radio frequency users on the Landlord's Property, the Landlord will provide Tenant with a list of all current radio frequency user(s) (and their frequencies) on the Property to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with Landlord or existing third parties on the Property as long as the current user(s) operate and continue to operate within their licensed frequencies, and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for use of Landlord's Property, if such use may in any way adversely affect or interfere with Tenant's Communication Facility. Landlord will notify Tenant and receive Tenant's written approval prior to granting any third party the right to install and operate communications equipment on Landlord's Property. Nothing contained herein will restrict Tenant nor its successors and assigns from installing and modifying its/their communication equipment.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property, other than for educational purposes, in any way which interferes with the operations of Tenant or the rights of Tenant under this Agreement. In the event of any interference, including that caused by uses for educational purposes, Landlord will cause such interference to cease upon written notification from Tenant. In the event any such interference does not cease promptly then the parties acknowledge that Tenant may suffer irreparable injury, and therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity, for Landlord's breach of this Agreement, to elect to bring action to enjoin such interference or to terminate the Agreement immediately upon notice to Landlord.



11. **INDEMNIFICATION.** Tenant agrees to indemnify, defend and hold Landlord harmless from and against any direct injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) resulting from the installation, use, maintenance, repair or removal of the Communication Facility or the breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractors.

12. **WARRANTIES.**

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has all rights, power and authority to enter into this Agreement and bind itself thereto through the party set forth as signatory for the party below.

(b) Landlord represents and warrants that: Landlord (i) solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license, unencumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, agreements of record or not of record, except those disclosed to Tenant which would adversely affect Tenant's use and enjoyment of the Premises under this Agreement; (ii) as long as Tenant is not in default then Landlord grants to Tenant, quiet and peaceful use, enjoyment and possession of the Premises; (iii) its 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 the Landlord; and (iv) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will use best efforts to provide promptly to Tenant a Subordination, Non-Disturbance and Attornment Agreement.

13. **ENVIRONMENTAL.**

(a) Landlord represents, warrants and agrees that, to the best of its knowledge: (i) the Premises and its uses and operations complies, and will comply, with all local, state and federal statutes or regulations, or ordinances pertaining to the environment or natural resources ("Environmental Laws" as defined in attached Exhibit D); (ii) the Property has not been used or allowed to be used by Landlord or, to the best of Landlord's knowledge, by any previous owner, to emit through ground, water or air, refine, manufacture, generate, produce, store, contain, handle, transfer, process, treat, transport, or dispose of hazardous substances or hazardous wastes, products or pollutants, including without limitation asbestos, oil, petroleum products and their by-products, (collectively called "Hazardous Substance") as defined and regulated under any Environmental Laws; (iii) the Property has never been the subject of any federal or state Hazardous Substance related list; (iv) the Property has never required closure or clean-up of Hazardous Substance; and (v) no asbestos, Polychlorinated Biphenyls or other Hazardous Substance or underground or above ground storage tanks exist or have existed or will exist on the Property.

(b) Tenant represents, warrants and agrees to conduct its activities on the Premises in compliance with all applicable Environmental Laws. Tenant will not use, generate, release, manufacture, refine, produce, store, or dispose of any Hazardous Substance on, under, or about the Leased Premises, except for the use of sealed batteries for emergency back-up, emergency generator with diesel fuel, any fire suppression system and small quantities of cleaning products ordinarily used by commercial businesses. Tenant agrees to defend, indemnify and hold harmless Landlord from and against any and all direct liabilities, damages, losses, costs, assessments, penalties, fines, expenses and fees, including reasonable legal fees, that Landlord may suffer due

to the existence or discovery of Hazardous Substance on the Property or released into the environment that are directly caused by Tenant's use of the Premises.

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

14. **ACCESS.**

At all times throughout the term of this Agreement, and at no additional charge to Tenant, Landlord will provide, as further set forth in Exhibit B, Tenant and its employees, agents, and subcontractors, with twenty-four hour, seven day access to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. However, Tenant agrees to limit and coordinate access with Landlord to minimize disturbance to the educational process. Upon Tenant's request, Landlord will execute a non-exclusive easement evidencing this right. In the event any public utility is unable to use the access or easement provided to Tenant then the Landlord hereby agrees to grant an additional access or easement either to Tenant or to the public utility, for the benefit of Tenant, at no cost to Tenant.

15. **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 the 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 the Tenant and may be removed by Tenant at any time during the Term. Within ninety (90) days of the termination of this Agreement, Tenant will remove all such improvements. Footings, foundations, and concrete will be removed in total. Tenant will, to the extent reasonable, restore the Premises to its condition at the commencement of the Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted. Tenant will not be responsible for the replacement of any trees, shrubs, or other vegetation, nor will Tenant be required to remove from the Premises or the Property any underground utilities.

16. **MAINTENANCE; UTILITIES.**

(a) Tenant will, at Tenant's expense, keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements.

(b) Tenant will be solely responsible for and promptly pay all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Landlord will fully cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide service to the Tenant. During any application period the Tenant will have the right to temporarily use Landlord's electricity and will pay the Landlord the current local utility rate for electric consumed by Tenant. 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 the 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. 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 Tenant, Landlord shall provide copies of such utility billing records to the Tenant in the form of copies of invoices, contracts and cancelled checks. If the utility billing records reflect an overpayment by Tenant, Tenant shall have the right to deduct the amount of such overpayment from any monies due to Landlord from Tenant.

(c) 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. 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.

**17. 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 receipt of written notice of such failure to pay from Landlord; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of 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 will be excused if due to causes beyond the reasonable control of Tenant.

(b) The following will be deemed a default by Landlord and a breach of this Agreement. Landlord's failure to perform any term or condition under this Agreement within forty-five (45) days after receipt of 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.

**18. ASSIGNMENT/SUBLEASE.**

(a) Landlord may assign this Agreement provided said assignee will assume, recognize and also become responsible to Tenant for, the performance of all of the terms and conditions to be performed by Landlord under this Agreement.

(b) Tenant may not assign, sublet, or otherwise transfer, all or any part of its interest in this Agreement or in the Premises, without the prior written consent of Landlord which consent shall not be unreasonably withheld, delayed, or conditioned; however, Tenant may assign its interest in this Agreement, and all or any rights, benefits, liabilities and obligations hereunder, to (i) any person or business entity which is a parent, subsidiary, or affiliate of Tenant; (ii) any person or business entity that controls or is controlled by or under common control with Tenant; or (iii) any person or business entity that is merged or consolidated with Tenant or purchases a majority or controlling interest in the ownership or assets of Tenant.. Upon notification to Landlord by Tenant of assignment conforming with the provisions of this Agreement, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment. Tenant may not otherwise assign or sublet this Agreement without Landlord's consent. Additionally, if Tenant wishes to sublet to a wireless communications provider, including but not limited to any co-location, such right to sublease shall require Landlord approval, which approval shall not be unreasonably withheld, delayed, or conditioned and a written lease agreement between Landlord and Sublessee for ground space.

19. **NOTICES.** All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed to the parties at the addresses set forth below:

To Landlord: Alpine School District  
Attn: Business Manager  
575 North 100 East  
American Fork, UT 84003  
Telephone: (801) 756-8423  
Facsimile: (801) 756-8516

with a copy to: Principal

To Tenant:  
New Cingular Wireless PCS, LLC  
Attn: Tower Asset Group - Lease Administration  
Re: Cell Site #: UTL04110; Cell Site Name: TIMPANOGOS\_HIGHWAY (UT)  
Fixed Asset #: 15141297  
1025 Lenox Park Blvd NE 3rd Floor  
Atlanta, Georgia 30319  
Telephone:  
Facsimile:

With a copy to:  
New Cingular Wireless PCS, LLC  
Attn.: Legal Dept – Network Operations  
Re: Cell Site #: UTL04110; Cell Site Name: TIMPANOGOS\_HIGHWAY (UT)  
Fixed Asset #: 15141297  
208 S. Akard Street  
Dallas, TX 75202-4206  
Telephone:

Either party hereto may change the place for the giving of notice to it by written notice to the other as provided herein.

20. **SEVERABILITY.** If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) days prior written notice to the other party hereto.

21. **TAXES.** Tenant will pay all personal property taxes assessed on, or any portion of such taxes attributable to, the Communication Facility. Tenant, upon presentation of sufficient and proper documentation, will pay, within thirty (30) days, any increase in real property taxes levied against the Property (excluding any additional taxes that relate to the period prior to the Commencement Date, i.e., rollback taxes) which is directly attributable to Tenant's use of the Property, provided Tenant will be entitled to appeal any such increase payable by it. Landlord agrees that it will reasonably cooperate with an appeal of such taxes and will promptly pay when due all real estate taxes levied against the Property. Any such appeal will be at the expense of Tenant

22. **CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's reasonable 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 shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power, shall be treated as a taking by condemnation. Tenant will be entitled to reimbursement for any prepaid Rent.

23. **CASUALTY.** Landlord will provide notice to Tenant of any casualty affecting the Premises within forty-eight hours of the casualty. If any part of the Communication Facility or Premises is damaged by fire or other casualty so as to render the Premises unsuitable, in Tenant's reasonable determination, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of such damage or destruction. 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.

24. **BROKER FEES.** Tenant and Landlord each acknowledges and represents to the other that no broker or other person was used by it in connection with this transaction. If any claims, actions or proceedings are brought against Landlord by reason of any broker, finder or other person claiming to have dealt with Tenant in connection with this transaction and/or the Premises, then the Tenant hereby agrees to indemnify, hold harmless and defend the Landlord from and against all liabilities arising from such claims, and all reasonable costs and expenses incurred in connection therewith (including, without limitation, reasonable legal fees and disbursements). The provisions of this Article will survive the termination of this Agreement.

25. **RIGHT OF FIRST REFUSAL FOR AGREEMENT.** Notwithstanding the foregoing, if at any time after the Commencement 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. Tenant shall have the right within ninety (90) days after it receives such copy to match the financial terms of the Offer and agree in writing to match such terms of the Offer. Such writing shall be in the form of a contract substantially similar to the Offer but Tenant may assign its rights to a third party. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the ninety (90) day period, Landlord may sell, convey, assign or transfer such property interest in or related to the Premises 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 18(a), the sale, conveyance, assignment or transfer shall be void. 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 18(a). Tenant’s failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Section 25 with respect to any future proposed conveyances as described herein.

## 26. MISCELLANEOUS.

- (a) Amendment; Waiver. This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of Landlord and Tenant. No provision may be waived except in writing signed by the party waiving said right.
- (b) Other Documents. Each party agrees to cooperate with the other in executing documents (including a Memorandum of Lease in substantially the form attached as Exhibit E) necessary to protect its rights or use of the Premises. The Memorandum of Lease may be recorded in place of this Lease, by either party.
- (c) Bind and Benefit. The terms and conditions contained in this Agreement will run with the Property and inure to the benefit of the parties, their respective heirs, personal representatives, administrators, successors and assigns.
- (d) 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.
- (e) 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.
- (f) 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 the Agreement and are incorporated by reference into this Agreement; (v) use of the terms “termination” or “expiration” are interchangeable, and (vi) reference to a default will take into consideration any applicable notice, grace and cure periods.

(g) Estoppel. Either party will, at any time upon thirty (30) days prior written notice from the other, execute, acknowledge and deliver to the other such truthful estoppel information as the other may reasonably request

(h) No Option. The submission of this Agreement for examination or consideration does not constitute a reservation of or option for the Premises. This Agreement will become effective as an Agreement only upon the legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(i) Prevailing Party. The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.

(j) Preliminary Exhibits. The parties understand and acknowledge that Exhibit A (the legal description of the Property), Exhibit B (the Premises location within the Property) and Exhibit C (the site plan) may be attached to this Lease in preliminary form. Accordingly, the parties agree that upon preparation of final, more complete exhibits, Exhibits A, B and/or C, as the case may be, which may have been attached hereto in preliminary form, may be replaced by Lessee with such final, more complete exhibit(s).

(k) Counterparts. This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

**[SIGNATURES APPEAR ON NEXT PAGE]**



**IN WITNESS WHEREOF**, the undersigned have caused this Agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LANDLORD:** The Board of Education of the Alpine School District

\_\_\_\_\_

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

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

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

By: AT&T Mobility Corporation

Its: Manager

\_\_\_\_\_

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

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

STATE OF UTAH                    )  
  ) ss:  
COUNTY OF UTAH                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Alpine School District individual described herein, who executed the within and foregoing instrument, and acknowledged that he/she signed the same as a free and voluntary act and deed for the uses and purposes therein mentioned and was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

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

STATE OF \_\_\_\_\_ )  
  ) ss:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

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

## **EXHIBIT A**

to the Site Lease Agreement dated \_\_\_\_\_, 20\_\_, between The Board of Education of the Alpine School District, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

### **Legal Description**

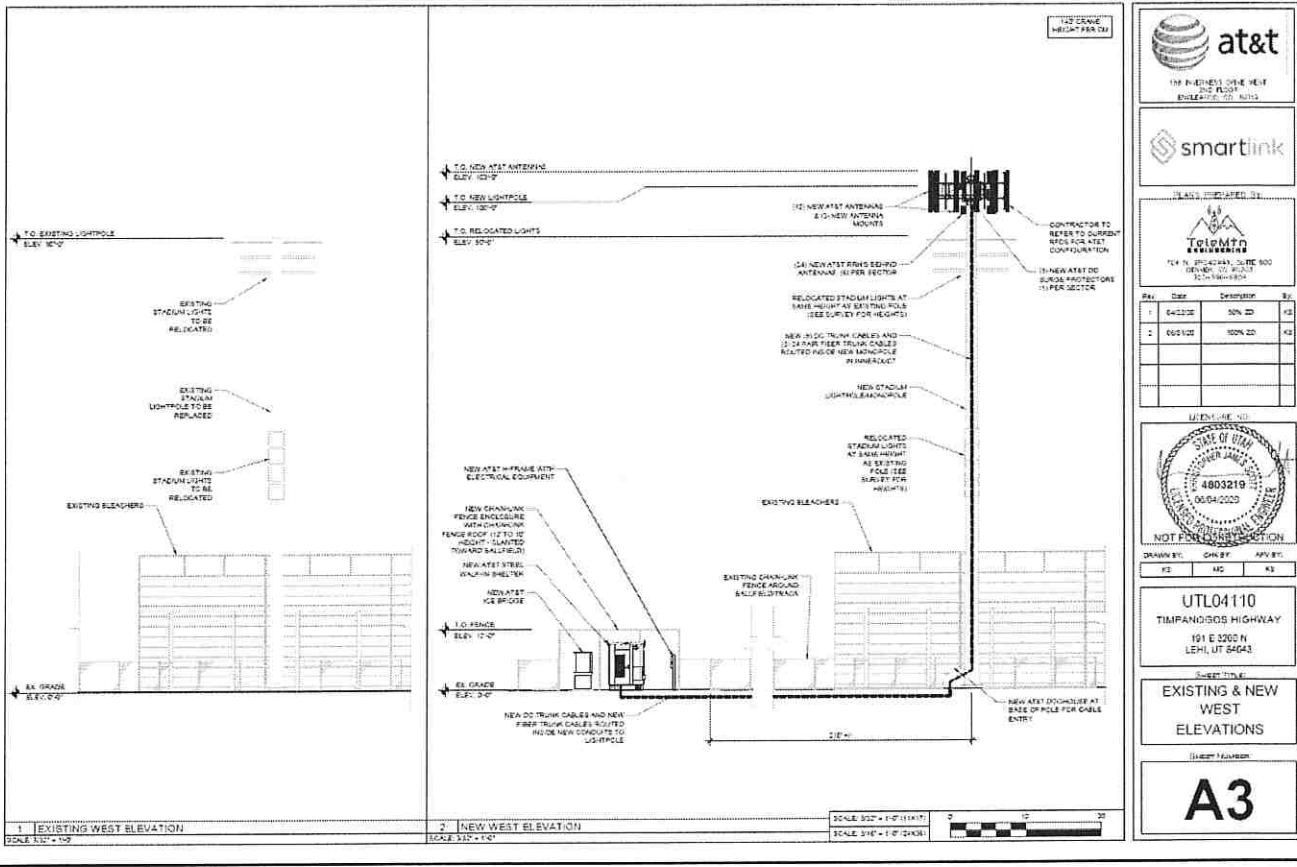
The property is legally described as follows: A parcel of land located in the Southwest Quarter of Section 33, Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, Utah, described as follows: Beginning 74.79 feet South and 38.47 feet East from the West Quarter corner of said Section 33 at a point on the east Right of Way line of Center Street; thence S. 00°05'39" E. 303.19 feet along said Right of Way line, thence S. 89°57'38" E. 1601.05 feet, thence N. 01°17'50" E. 343.04 feet to the South Right of Way line of 3200 North Street, thence N. 89°57'38" W. 1569.41 feet along said Right of Way line, thence along a curve turning to the left with an arc length of 13.90 feet, a radius of 80.00 feet and a chord bearing and distance of S. 51°44'50" W. 13.88 feet, thence S. 46°47'10" W. 13.83 feet, thence S. 46°46'01" W. 13.83 feet, thence along a curve turning to the left with an arc length of 15.15 feet, a radius of 40.11 feet and a chord bearing and distance of S. 35°55'56" W. 15.06 feet; to the point of beginning.



## EXHIBIT C

to the Site Lease Agreement dated \_\_\_\_\_, 20\_\_\_\_, between The Board of Education of the Alpine School District, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

### Site Plan





**EXHIBIT E**

to the Site Lease Agreement dated \_\_\_\_\_, 20\_\_, between The Board of Education of the Alpine School District, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

**MEMORANDUM  
OF  
LEASE**

This Memorandum of Lease is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between [Insert Landlord's Name], a [Insert Jurisdictional State, and Entity Type] having its principal office/residing at [Insert Landlord's Address] (hereinafter called "**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE, Atlanta, GA 30319 ("**Tenant**").

1. Landlord and Tenant entered into a certain Site 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 [[Spell It] ( \_\_\_\_\_ )] 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 A** 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:**

[Insert Landlord's Name] , a  
[Insert Jurisdictional State, and Entity Type]

By: \_\_\_\_\_  
Print Name: [ \_\_\_\_\_ ]  
Its: \_\_\_\_\_ [Insert Title]  
Date: \_\_\_\_\_ [Insert Date]

**TENANT:**

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

By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_  
Print Name: [ \_\_\_\_\_ ]  
Its: \_\_\_\_\_ [Insert Title]  
Date: \_\_\_\_\_ [Insert Date]

**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 ACKNOWLEDGMENT**

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: \_\_\_\_\_