

Cell Site Name: DAY HOW & ELK  
Fixed Asset No. 10020048  
Market: North Florida  
Address: 2147 Howland Blvd., Deltona, FL 32738

## FIRST AMENDMENT TO SITE AGREEMENT FOR LAND AND COLOCATION ON TOWER

THIS FIRST AMENDMENT TO SITE AGREEMENT FOR LAND AND COLOCATION ON TOWER ("**First Amendment**") dated as of the latter of the signature dates below (the "**Effective Date**"), is by and between City of Deltona having a mailing address of 2345 Providence Blvd., Deltona FL 32738 (hereinafter referred to as "**Owner**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company having a mailing address of 1025 Lenox Park Boulevard NE, 3rd Floor, Atlanta, GA 30319 (hereinafter referred to as "**Lessee**").

**WHEREAS**, Owner and Lessee (or its predecessor-in-interest) entered into a Site Agreement for Land and Colocation on Tower dated December 12, 2001 (the "**Agreement**") whereby Owner leased to Lessee certain Premises, therein described, that are a portion of the Property located at 2147 Howland Blvd., Deltona, FL 32738 ; and

**WHEREAS**, the parties mutually desire to renew the Agreement, memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions contained herein; and

**WHEREAS**, Owner and Lessee desire to amend the Agreement to extend the term of the Agreement; and

**WHEREAS**, Owner and Lessee desire to amend the Agreement to adjust the Rent in conjunction with the modifications to the Agreement contained herein; and

**WHEREAS**, Owner and Lessee desire to amend the Agreement to modify the notice section thereof; and

**WHEREAS**, Owner and Lessee, in their mutual interest, wish to amend the Agreement as set forth below accordingly.

**NOW THEREFORE**, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Lessee agree that the recitals set forth above are incorporated herein as if set forth in their entirety and further agree as follows:

1. **Term.** The Term of the Agreement shall be amended to provide that the current term, which commenced on November 6, 2016, shall expire on September 30, 2021 ("**Current Term**"), and commencing on October 1, 2021 will be automatically renewed, upon the same terms and conditions of the Agreement, for six (6) additional five (5) year terms (each an "**Extension Term**"). Hereafter, "Term" shall include the Current Term and any applicable Extension Term. The Terms will automatically renew without further action by Lessee, unless Lessee notifies Owner in writing of Lessee's intention not to renew the Agreement at least sixty (60) days prior to the expiration of the then Current Term or any Extension Term. Owner agrees and acknowledges that, except as such permitted use or other rights may be amended herein, Lessee may continue to use and exercise its rights under the Agreement as permitted prior to the first Extension Term.

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2. **Modification of Rent.** The Rent payable under the Agreement shall be Two Thousand, Two Hundred and No/100 Dollars (\$2,200.00) per month, and shall continue during the Term, subject to adjustment as provided in the Agreement. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount.

3. **Future Rent Increase.** The Agreement is amended to provide that commencing on October 1, 2026, Rent shall increase by ten percent (10%) and at the beginning of each Extension Term thereafter, as applicable.

4. **Removal/Restoration.** In addition to the terms set forth in the Agreement, Owner agrees that the Communications Facility and any related equipment brought to the Premises by Lessee, its agents, contractors, predecessors-in-interest or subtenants, shall be and remain Lessee's personal property or the personal property of its subtenant(s), as the case may be. Owner waives any and all rights it may have, including any rights it may have in its capacity as Owner under the Agreement to assert any liens, encumbrances or adverse claims, statutory or otherwise, related to or in connection with the Communications Facility or any portion thereof. Lessee, in its sole discretion, may remove the Communications Facility or any portion of the Communications Facility at any time during the Term of the Agreement, without notice to Owner and without Owner's consent. Notwithstanding any terms to contrary, Lessee will not be responsible for the replacement of any trees, shrubs or other vegetation, nor will Lessee be required to remove from the Premises or the Property any foundations or underground utilities. Lessee, may, in its sole discretion, transfer any improvements or alterations to the Premises to Owner at any time during the Term of the Agreement without notice to the Owner and without the Owner's consent.

5. **Sale of Property.**

- (a) Owner shall not be prohibited from the selling, leasing or use of any of the Property or the surrounding property except as provided below.
- (b) If Owner, at any time during the Term of the 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 surrounding property, to a purchaser other than Lessee, Owner shall promptly notify Lessee in writing, and such rezoning, sale, subdivision or transfer shall be subject to the Agreement and Lessee's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Owner or its successor shall send the documents listed below in this subsection (b) to Lessee. Until Lessee receives all such documents, Lessee shall not be responsible for any failure to make payments under the Agreement and reserves the right to hold payments due under the 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 AT&T Payment Direction Form
  - vii. Full contact information for new Owner including phone number(s)

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- (c) Owner agrees not to sell, lease or use any areas of the Property or surrounding property for the installation, operation or maintenance of other wireless communications facilities if such installation, operation or maintenance would interfere with Lessee's Permitted Use or communications equipment as determined by radio propagation tests performed by Lessee in its sole discretion. Owner or Owner's prospective purchaser shall reimburse Lessee for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Lessee, Owner 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 communications facility or equipment. Lessee shall not interfere with Owner's emergency equipment installed or proposed to be installed on the site. Lessee shall be required to cease transmission until interference is rectified.
- (d) The provisions of this Section shall in no way limit or impair the obligations of Owner under the Agreement, including interference and access obligations.

6. **Right of First Refusal.** Notwithstanding any other provisions contained in the Agreement, if at any time after the Effective Date, Owner 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 ("**Offer**"), Owner shall immediately furnish Lessee with a copy of the Offer. Lessee 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 Lessee may assign its rights to a third party. If Lessee chooses not to exercise this right or fails to provide written notice to Owner within the ninety (90) day period, Owner may sell, convey, assign or transfer such property interest in or related to the Premises pursuant to the Offer, subject to the terms of the Agreement. If Owner attempts to sell, convey, assign or transfer such property interest in or related to the Premises without complying with this Section 5, the sale, conveyance, assignment or transfer shall be void. Lessee shall not be responsible for any failure to make payments under the Agreement and reserves the right to hold payments due under the Agreement until Owner complies with this Section 5. Lessee's failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Section 5 with respect to any future proposed conveyances as described herein.

7. **Notices.** The Agreement is amended to include the following:

**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 as follows:

If to Lessee:

[TowerNotices@list.att.com](mailto:TowerNotices@list.att.com)

As to Owner:

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City of Deltona  
Attn: City Manager  
2345 Providence Blvd  
Deltona, FL 32725

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

8. **Memorandum of Lease ("MOL").** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.

9. **Charges.** All charges payable under the Agreement such as utilities and taxes shall be billed by Owner within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Owner, and shall not be payable by Lessee. The foregoing shall not apply to Rent which is due and payable without a requirement that it be billed by Owner. The provisions of this subsection shall survive the termination or expiration of the Agreement.

10. **Acknowledgement.** Owner acknowledges that: 1) this First Amendment is entered into of the Owner's free will and volition; 2) Owner has read and understands this First Amendment and the underlying Agreement and, prior to execution of this First Amendment, was free to consult with counsel of its choosing regarding Owner's decision to enter into this First Amendment/Lease/License and to have counsel review the terms and conditions of this First Amendment; 3) Owner has been advised and is informed that should Owner not enter into this First Amendment, the underlying Agreement between Owner and Lessee, including any termination or non-renewal provision therein, would remain in full force and effect.

11. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this First Amendment, the terms of this First Amendment shall control. Except as expressly set forth in this First Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

12. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

[SIGNATURES APPEAR ON THE NEXT PAGE]

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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute this First Amendment on the dates set forth below.

**WITNESSES:**

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

Name: \_\_\_\_\_

**OWNER:**

City of Deltona

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LESSEE:**

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

By: AT&T Mobility Corporation  
Its: Manager

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

Name: Hayben Ohmer

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

Name: Gregory D. Ohmer

Title: Director

Date: 11/25/2020

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

**Cell Site Name: DAY HOW & ELK**  
**Fixed Asset No. 10020048**  
**Market: North Florida**  
**Address: 2147 Howland Blvd., Deltona, FL 32738**

## OWNER ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) SS.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

Notary Seal

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary Public in and for the State of \_\_\_\_\_

My appointment expires: \_\_\_\_\_

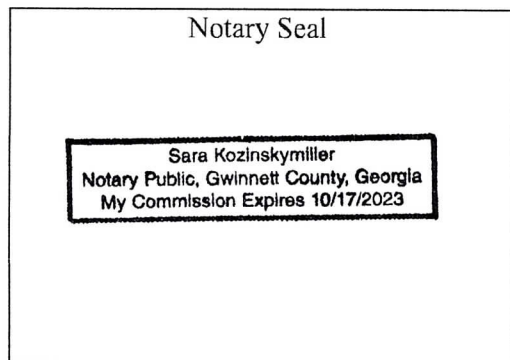
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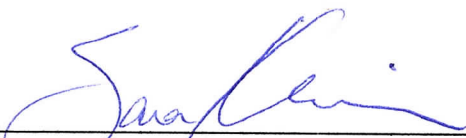
**LESSEE ACKNOWLEDGMENT**

STATE OF GEORGIA       )  
                                      ) SS.  
COUNTY OF FULTON     )

I certify that I know or have satisfactory evidence that Gregory D. Ohmer is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Director of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: Nov. 25, 2020



  
(Signature of Notary)  
Sara Kozinskymiller  
(Legibly Print or Stamp Name of Notary)  
Notary Public in and for the State of GA  
My appointment expires: 10/17/23

**ATTACHMENT 1**

**Memorandum of Lease**



**Recording Requested By**  
**& When Recorded Return To:**

*Black Dot Wireless*  
*23456 Madero - Suite 210*  
*Mission Viejo, CA 92691*

Re:

Cell Site Name: DAY HOW & ELK  
Fixed Asset No. 10020048  
State: Florida  
County: Volusia

**MEMORANDUM  
OF  
LEASE**

This Memorandum of Lease is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between City of Deltona, having a mailing address of 2345 Providence Blvd., Deltona FL 32738 (hereinafter referred to as "**Owner**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Boulevard NE, 3rd Floor, Atlanta, GA 30319 (hereinafter referred to as "**Lessee**").

1. Owner and Lessee (or its predecessor-in-interest) entered into a Site Agreement for Land and Colocation on Tower dated December 12, 2001, as amended by the First Amendment to Site Agreement for Land and Colocation on Tower dated \_\_\_\_\_ whereby Owner leased to Lessee certain Premises, therein described, that are a portion of the Property located at 2147 Howland Blvd., Deltona, FL 32738 (hereinafter, collectively referred to as the "**Agreement**"). All of the foregoing are set forth in the Agreement.
2. The Agreement Term initially commenced January 20, 2002 and the parties agree to further extend the Agreement for six (6) additional five (5) year terms commencing on October 1, 2021.

3. The portion of the land being leased to Lessee (the “**Premises**”) is described in **Exhibit 1** annexed hereto.
4. 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.

**[SIGNATURES APPEAR ON THE NEXT PAGE]**

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

**WITNESSES:**

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

Name: \_\_\_\_\_

**OWNER:**

City of Deltona

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LESSEE:**

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

By: AT&T Mobility Corporation  
Its: Manager

By: Hayden Ohmer

Name: HAYDEN OHMER

By: Gregory D. Ohmer

Name: Gregory D. Ohmer

Title: Director

Date: 11/30/2020

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

## OWNER ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) SS.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

Notary Seal

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary Public in and for the State of \_\_\_\_\_

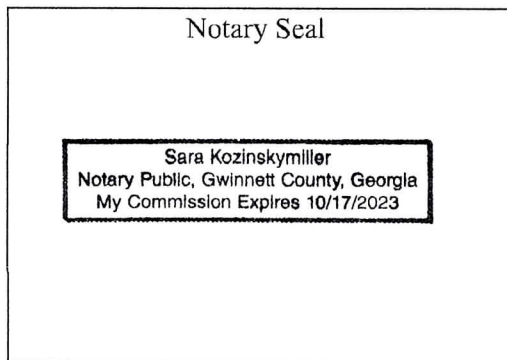
My appointment expires: \_\_\_\_\_

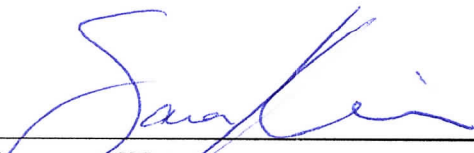
**LESSEE ACKNOWLEDGMENT**

STATE OF GEORGIA            )  
  ) SS.  
COUNTY OF FULTON        )

I certify that I know or have satisfactory evidence that Gregory D. Ohmer is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Director of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: Nov. 30, 2020.



  
(Signature of Notary)  
Sara Kozinskymiller  
(Legibly Print or Stamp Name of Notary)  
Notary Public in and for the State of GA  
My appointment expires: 10/17/23

## **EXHIBIT 1**

### **DESCRIPTION OF PREMISES**

Page 1 of 1

to the Memorandum of Lease dated \_\_\_\_\_, 2020, by and between City of Deltona, as Owner, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Lessee.

The Premises are a portion of the Property located at 2147 Howland Blvd., Deltona, FL 32738, and legally described and/or depicted as follows:

**That certain parcel of land lying and being a part of Tract "I" of DELTONA LAKES UNIT SEVENTY-FOUR according to the Plat thereof as recorded in Plat book 29 Pages 28 through 44 inclusive of the Public Records of Volusia County, Florida.**

**Being more particularly described as follows:**

**Begin at the most Easterly corner of said Tract "I", the same being a point on the Southwesterly right-of-way line of State Road No. 444 as shown on said plat of DELTONA LAKES UNIT SEVENTY-FOUR; thence run S. 42' 41' 44" W. along the Southeasterly boundary line of said Tract "I", a distance of 250.00 feet; thence runs S. 87' 41' 44" W. a distance of 100.00 feet; thence run N. 47' 18' 16" W. a distance of 106.86 feet; thence run N 42' 41' 44" E. a distance of 320.71 feet to a point on the aforementioned Southwesterly right-of-way line of State Road No. 444; thence run S 47' 18' 16" E. along said right-of-way line, a distance of 177 .57 feet to the Point of Beginning.**

## **EXHIBIT A**

## EXHIBIT A

**2147 Howland Blvd (F.S. 63)**

<b>Rad/Carrier</b>	<b>Mounting Elevation</b>	<b>Number of Antennas and Equipment</b>	<b>Antenna and Equipment Manufacturer</b>	<b>Antenna Model</b>	<b>Number of Feed Lines</b>	<b>Feed Line Size (in.)</b>
110* AT&T	112 Reserved	3	Ericsson	RRUS 32	1	3/4
		1	Raycap	DC6-48-60-18-8F	1	3/8
	112	6	Andrew	SBNHH-1D65B	18  3 3 2	1 5/8 5/16 3/4 3/8
		3	Ericsson	RRUS A2 Module		
		3	Ericsson	RRUS-11		
		6	Ericsson	RRUS-12		
		6	Powerwave	7770.00		
		2	Raycap	DC6-48-60-18-8F		
		6	Rfs Celwave	ATM19801712-0		
		6	Rfs Celwave	FDGW5504/1C-0		
	110	1	-	Platform Mount	-	-