

Attachment A

**COUNTY OF MONTEREY
WIRELESS COMMUNICATION
SITE LEASE AGREEMENT**

THIS LEASE AGREEMENT (hereinafter "Agreement") is made and entered into by and between the County of Monterey, a political subdivision of the State of California, (hereinafter "LESSOR"), c/o Real Property Specialist, 855 East Laurel Drive, Building C, Salinas CA 93905, and **New Cingular Wireless PCS, LLC** (hereinafter "LESSEE"), with its principal office at **6100 Atlantic Boulevard, Norcross, Georgia 30071**.

LESSOR and LESSEE hereby agree as follows:

1. PREMISES: LESSOR is the owner of that certain real property located at **1025 Monterey Highway 68, Salinas, California**, as more particularly described in Exhibit "A" attached hereto and made a part hereof (the entirety of LESSOR's property is referred to hereinafter as the "Property"). LESSOR hereby leases to LESSEE a portion of said Property consisting of approximately **two hundred (200) square feet** located on the Property for LESSEE's equipment (the "Equipment Space") along with space on tower for LESSEE's antennas (the "Antenna Space"), as shown in Exhibit "B" attached hereto and made a part hereof. Subject to the requirements as set forth in Section 6 below, LESSEE shall have the non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, for the purpose of installation and maintenance of the demised premises, which Equipment Space, Antenna Space, and all connections and access are collectively referred to hereinafter as the "Premises".

LESSOR also grants to the LESSEE the right and sufficient space for the installation and maintenance of wires, cables, conduits and pipes generally as shown in Exhibit "B" running from the Equipment Space to the Antenna Space and to install, maintain, replace and repair wires, cables, conduits and pipes from the Premises to the nearest appropriate utilities provider if LESSOR is not providing adequate power and telephone access in the Premises.

2. PERMITTED USE: Subject to the terms of this Agreement, LESSEE shall be permitted to operate and maintain certain wireless communication base station equipment and antennae and other appurtenant and incidental equipment including but not limited to an emergency generator of the type and kind determined solely by LESSEE (hereinafter "Equipment") in the designated area(s) of the Premises, as depicted on Exhibit "B" attached hereto. Any Equipment which has been installed in violation of the terms of this Agreement, or in violation of any approvals granted hereunder, shall be removed by LESSEE forthwith, at LESSOR's reasonable discretion, and at LESSEE's sole cost and expense. All Equipment to be installed under this Agreement shall be clearly marked by LESSEE with its identifying information which shall include the identity and phone number of LESSEE's emergency contact, FCC registration number, and the transmitting and receiving frequencies of the Equipment.

3. IMPROVEMENTS ON THE PREMISES: LESSEE accepts the Premises in an "as is" condition. LESSEE shall have the right to finance and construct approved equipment and related improvements on the Premises at LESSEE's sole cost and expense. LESSOR hereby consents to and approves of LESSEE's initial installation at the Premises, as depicted on Exhibit "B" attached hereto. Following the construction and installation of LESSEE's Equipment, LESSEE may thereafter, at its sole cost and expense, perform construction, maintenance, repairs, additions to, and replacement of its Equipment as necessary and appropriate for its ongoing business and has the right to do all work necessary to prepare, modify and maintain the Premises to accommodate LESSEE's Equipment and as

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required for LESSEE's communications operations at the Premises, including any structural upgrades required to accommodate LESSEE's equipment on the Premises. Notwithstanding the foregoing, once the initial Equipment is installed, LESSEE shall not make any material alterations thereto (or to the Premises structure itself) without obtaining the prior written approval of LESSOR (provided, however, it is understood and agreed that LESSEE shall have the right to make repairs and replacements of "like-kind" equipment without having to obtain LESSOR's consent). LESSEE agrees to submit to the LESSOR, for review and approval, all plans including specifications, working drawings, and other information reasonably required by the LESSOR covering proposed alterations by LESSEE. Said plans shall be submitted to the LESSOR for LESSOR's written approval, which approval shall not be unreasonably withheld, conditioned or delayed. In the event the LESSOR does not either (i) object to the plans in writing or (ii) furnish the LESSEE with written approval, within fifteen (15) days of the date of submission of the plans, LESSOR will be deemed to have approved them. All work to be done by LESSEE shall be performed in accordance with the approved plans unless otherwise approved in writing by the LESSOR which approval shall not be unreasonably withheld, conditioned or delayed.

LESSOR retains the right to make any improvements to the Premises and Property as reasonably deemed necessary by the LESSOR. Said improvements shall not be inconsistent with the LESSEE's use of the Premises. Nothing contained in this Agreement shall be deemed or construed in any way to limit the LESSOR's authority to exercise any right or power concerning the utilization of the Premises and Property. LESSEE's use of the Premises shall be subordinate to the LESSOR's use of the Property. LESSOR shall notify LESSEE of any intended use of the Property by the LESSOR which may be reasonably expected to affect LESSEE's use of the Premises and any such use shall not be inconsistent with nor interfere with LESSEE's use of the Premises.

4. GOVERNMENTAL APPROVALS/TERMINATION: It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals relating to the presence and operation of the Equipment at the Premises (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities, including all applicable Federal Communications Commission (FCC) requirements. This requirement includes any necessary construction, building or use permits and compliance with any progress inspections that may be required by any regulatory body. In lieu of construction permits, LESSOR may charge LESSEE a reasonable fee for the Facilities Impact Review that will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action that would adversely affect the status of the Property with respect to the proposed use by LESSEE. In the event that any of such applications for such Governmental Approvals should be finally rejected or any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that LESSEE in its sole discretion will be unable to use the Premises for its intended purposes or the LESSEE determines that the Premises are no longer technically compatible for its intended use, LESSEE shall have the right to terminate this Agreement. Notice of the LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by the LESSEE. All Lease Fees paid prior to said termination date shall be retained by the LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each party to the other hereunder. Otherwise, all the parties shall have no further obligations, including the payment of money, to each other.

5. INTERFERENCE: LESSEE agrees to have installed radio/wireless equipment of the type and frequency that will not cause interference to LESSOR or to other current lessees of the Property. In the event LESSEE's Equipment causes such interference, and after LESSOR has notified LESSEE of such interference pursuant to this Agreement, LESSEE will take all steps necessary to correct and eliminate the

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interference within thirty (30) days of said notice. LESSOR acknowledges that interference may come from different sources, and LESSEE shall only be responsible to correct interference caused by LESSEE's Equipment. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such radio/wireless equipment that is of the type and frequency which will not cause measurable interference to the existing equipment of the LESSEE.

6. **ACCESS:** LESSOR shall make all reasonable effort to allow LESSEE (including LESSEE's employees, agents, contractors, and subcontractors) twenty-four (24) hour per day/seven (7) days per week access to the Property under the following conditions:

- a) LESSEE shall adhere to LESSOR's security policies (that may be reasonably changed from time to time) regarding access to and use of the Premises.
- b) LESSEE shall contact the LESSOR or designated representative indicated in Section 15, at least two (2) business days (48 hours) in advance, for access onto the Premises, except in the case of an emergency. For emergency access, LESSEE shall contact the Monterey County Communications Dispatch at (831) 755-5100 and ask for the General Services' "emergency on call" person for assistance.
- c) If deemed necessary by LESSOR due to security reasons, LESSEE shall provide identification (business card with driver's license) to the LESSOR or designated representative for each entry onto the Premises.
- d) LESSEE shall park service vehicles on the Property only in places approved by the LESSOR or designated representative.
- e) Subject to Section 5 above, LESSEE shall not unreasonably interfere with LESSOR's operations and employees within the Property and shall not go into any offices, rooms, stairwells, or other portions of the Property not required for the purposes of this Agreement.
- f) LESSEE shall maintain and enforce safety and physical security procedures with respect to its access of LESSOR's facilities: (a) that are at least equivalent to those in effect for LESSOR's employees, officers, contractors, and agents, (b) that are at least equal to industry standards for such types of locations, (c) which provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration, or interruption of LESSOR's communications equipment, facilities, systems, and capabilities, and (d) which prevent unauthorized access, use, or disclosure of LESSOR's confidential information stored at, or communicated via, LESSOR's systems, facilities, and equipment.
- g) LESSEE shall take all reasonable measures to safeguard LESSOR's communications systems, facilities, and equipment from those who may seek to access LESSOR's systems via the facility access granted to LESSEE and periodically test those safeguard measures for potential areas where security could be breached and unauthorized access afforded. LESSEE will provide reports of such security assessments to LESSOR and use diligent efforts to remedy any deficiencies in LESSEE's safety and physical security procedures to avoid a breach of security or unauthorized access to LESSOR's facilities and/or systems.
- h) LESSEE shall immediately report to LESSOR any breach of security or unauthorized facility access that LESSEE observes, detects, or becomes aware of, conduct a root cause analysis to determine if LESSEE's practices contributed to the breach in a timely manner and report any necessary mitigation efforts necessary to avoid future incidents of security breach or unauthorized access.

7. **UTILITIES:** It is the LESSEE's responsibility to provide any electrical power or any other utilities or services for LESSEE's use or benefit at the Premises, and LESSOR shall not be responsible in any way for any loss of power or other utilities which may occur at the Premises except to the extent caused by LESSOR's negligence or willful misconduct. In the event it is necessary for LESSEE to sub-meter from LESSOR, LESSEE shall reimburse LESSOR for any power it uses no later than thirty (30)

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days from receipt of written notice from LESSOR. LESSOR shall at all times provide electrical service and telephone service access within the Premises. LESSEE, at LESSEE's sole cost and expense, shall be permitted to install, maintain and/or gain access to and use of, as necessary (during any power interruptions at the Premises), a temporary power source with appropriate sound suppression if LESSOR's auxiliary power source is deemed inadequate by a qualified electrical engineer.

8. LEASE FEE AND OTHER CHARGES:

- a) For the rights granted under this Agreement, LESSEE shall pay to LESSOR an annual fee (hereinafter "Lease Fee") in the amount of **Eighteen Thousand Dollars and 00/100 (\$18,000.00) per year**. LESSEE shall pay the first yearly Lease Fee on the Commencement Date, as defined in Section 9 below. The Lease Fee shall be made to (need not be sent certified): **County of Monterey**, at the address listed below:

County of Monterey
C/o General Services Department, Fiscal Division
855 East Laurel Drive, Building C
Salinas, California 93905

- b) The Lease Fee for all subsequent years during the stated term of this Agreement shall be paid in full by LESSEE to LESSOR, without demand, in advance, and in accordance with subsection a) of this Section.
- c) Upon submittal of the LESSOR's Wireless Communication Site Application Form and Authorization and Indemnification Agreement, LESSEE shall pay LESSOR the non-refundable sum of One Thousand Five Hundred Dollars and 00/100 (\$1,500.00) for collocation engineering review and facilitation.
- d) Upon full execution of this Agreement, LESSEE shall pay LESSOR the non-refundable sum of One Thousand Five Hundred Dollars and 00/100 (\$1,500.00) for lease review and facilitation.

9. **TERM OF AGREEMENT:** The initial term of this Agreement shall be for five (5) years commencing on the first (1st) day of the month following the date this Agreement is executed by the parties or the first (1st) day of the month following the date LESSEE is granted a building permit by the governmental agency charged with issuing such permits, whichever event occurs last (the "Commencement Date").

10. **EXTENSIONS:** This Agreement shall automatically be extended for three (3) additional five (5) year terms unless the LESSEE terminates it at the end of the then current term by giving the LESSOR written notice of the intent to terminate not less than six (6) months prior to the end of the then current term.

11. **LEASE FEE INCREASES:** The Lease Fee shall be increased on each annual anniversary of the Commencement Date by an amount equal to **three percent (3%)** of the monthly Lease Fee paid for the previous year.

12. **ADDITIONAL EXTENSIONS:** If at the end of the third (3rd) five (5) year extension term this Agreement has not been terminated by either party by giving to the other written notice of an intention to terminate at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either party by giving to the other written notice of its intention to terminate at least three (3) months prior to the end of such term or until the end of the eighteenth

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additional five (5) year term, whichever comes first, but in no case exceeding a total of ninety-nine (99) years.

13. **ASSIGNMENT:** Neither this Agreement nor any rights thereunder shall be transferred or assigned by the LESSEE, nor shall the LESSEE lease to any person or corporation or business entity, or permit the use of any portion of the Premises by others without the written consent of LESSOR, which consent shall not be unreasonably withheld, conditioned or delayed. It is understood and agreed that should LESSOR give consent to a sublease, LESSEE shall pay LESSOR in addition to the Lease Fee fifty percent (50%) of the income actually received from each sublessee. Notwithstanding the above, LESSEE may assign this Agreement, without written consent by LESSOR, to LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition, or other business reorganization. Notwithstanding anything to the contrary contained in this Agreement, LESSEE may assign, mortgage, pledge, hypothecate or otherwise transfer with the written consent of LESSOR its interest in this Agreement to any financing entity, or agent on behalf of any financing entity, to whom LESSEE (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof. It is understood and agreed that the written consent of the LESSOR shall not be granted until LESSOR receives satisfactory documentation evidencing LESSEE's Assignee's assumption of the terms and conditions of this Agreement. LESSEE shall not encumber the Premises or Property in any manner whatsoever.

14. **ANNUAL TERMINATION:** Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder and shall have paid all of the rents and sums due and payable to the LESSOR by LESSEE, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of this Agreement provided that six (6) months prior notice is given to the LESSOR.

15. **NOTICES:** Any demand or notice which either party shall be required, or may desire, to make upon or give to the other shall be in writing and shall be delivered personally upon the other or be sent by prepaid certified mail and shall be effective as of the date sent to the respective parties as follows:

To LESSOR: County of Monterey
General Services Department
c/o Real Property Specialist
855 E. Laurel Drive, Building C
Salinas, CA 93905
Tel: (831) 755-4855
Fax: (831) 755-4688
Email: salcidog@co.monterey.ca.us

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To LESSEE: c/o Cingular Wireless LLC
Attn: Network Real Estate Administration
Re: Cell Site: #MT-218-01; Cell Site
Name: Monterey Salinas Hwy. 68
6100 Atlantic Boulevard
Norcross, Georgia 30071
Tel: 678-418-4133
Fax: 866-265-7572
Email: Janice.porter@cingular.com


With a copy to: Cingular Wireless LLC
Attn: Legal Department
Re: Cell Site: #MT-218-01; Cell Site
Name: Monterey Salinas Hwy. 68
15 E. Midland Ave.
Paramus, NJ 07652

Either party may, from time to time, designate any other address for this purpose by written notice to the other party. Either party for general communication may use telephone, email or facsimile.

16. ACKNOWLEDGMENT OF TITLE: It is understood and agreed that LESSEE, by the acceptance of this Agreement and by the use or occupancy of said Premises, has not acquired and shall not acquire hereafter any property rights or interest in or to said Premises (other than the leasehold interest granted herein), and LESSEE may use the Premises only as herein provided. LESSEE shall not have, nor will it obtain, any right or claim to the continued use of said Premises beyond that specifically given in this Agreement. LESSOR covenants that LESSEE, on paying the Lease Fee and performing the covenants, shall peaceably and quietly have, hold and enjoy the Premises. LESSOR covenants that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants that there are no other liens, judgments or impediments of title on the Property or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent the use of the Premises by the LESSEE as set forth above.

17. REPAIRS: LESSEE shall be responsible for all maintenance and repairs of LESSEE's Equipment, and LESSEE shall keep its installation, including but not limited to, fencing and screening, in good, neat and clean condition in conformity with the standards of the local governing body regulations. LESSEE shall be responsible for the timely repair of all damage to Premises and Property caused by the negligence or willful misconduct of LESSEE, its employees, agents or business vendors. LESSEE shall maintain the leased portion of the Property's roofing system, if applicable, in a weather tight condition.

18. INSPECTION: The LESSOR shall have the right at all times to enter upon said Premises to inspect the Equipment and determine if said use is to the satisfaction of LESSOR, provided, however, that LESSOR shall not alter, adjust, move, disrupt or otherwise affect the operation of the LESSEE's Equipment. LESSOR shall provide LESSEE at least forty-eight (48) hours notice prior to entry, and LESSEE may have a representative present during the inspection. If LESSOR alters, adjusts, moves, disrupts or otherwise affects the operation of LESSEE's Equipment during the inspection in such a manner to cause damage to LESSEE's Equipment, LESSOR shall be liable for the damage.

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19. **INSURANCE COVERAGE REQUIREMENTS:** Without limiting LESSEE's duty to indemnify, LESSEE shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

- a) Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- b) Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used for purposes under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- c) Workers' Compensation Insurance, if LESSEE employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.
- d) Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to the LESSOR and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following termination of this Agreement.

Each liability policy shall provide that the LESSOR shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for LESSEE and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the LESSOR and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the LESSEE's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the LESSOR, LESSEE shall file certificates of insurance with LESSOR showing that the LESSEE has in effect the insurance required by this Agreement. The LESSEE shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

LESSEE shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by LESSOR, annual certificates to LESSOR. If the certificate is not received by the expiration date, LESSOR shall notify LESSEE and

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LESSEE shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by LESSEE to maintain such insurance is a default of this Agreement which entitles LESSOR, at its sole discretion, to terminate this Agreement immediately.

20. CONDEMNATION: In the event of any condemnation of the Property, LESSEE may terminate this Agreement upon fifteen (15) days written notice to LESSOR if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the antennas, Equipment, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement, and LESSOR and LESSEE shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement.

21. CASUALTY:

- a) In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and LESSOR and LESSEE shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the Lease Fee shall abate during the period of repair following such fire or other casualty.
- b) Should any matter or condition beyond the control of LESSOR and LESSEE, such as war, public emergency, calamity, fire, earthquake, flood, or act of God prevent performance of this Agreement by either party, such party shall be relieved of the performance of such obligations during the time period of the event.
- c) LESSEE shall be solely responsible for any damage or loss to LESSEE's Equipment resulting from theft or vandalism or resulting from any other cause, except as caused by LESSOR's acts or omissions.

22. INDEMNIFICATION: LESSEE shall indemnify, defend, and hold harmless LESSOR, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the use of the Premises under this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the LESSOR. LESSEE's "use of the premises" includes LESSEE's action or inaction and the action or inaction of LESSEE's officers, employees, agents and subcontractors. This indemnification shall survive any termination of this Agreement and shall be in addition to any other rights that LESSOR or LESSEE may have under applicable law.

23. ENVIRONMENTAL: LESSOR warrants and agrees that neither LESSOR nor, to LESSOR's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation,

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storage or disposal of, any Hazardous Material (as defined below) on, under, about or within LESSOR's Property in violation of any law or regulation. LESSOR and LESSEE each agree that they will not use, generate, store or dispose of any Hazardous Material on, under, about or within LESSOR's Property in violation of any law or regulation. LESSOR and LESSEE each agree to defend and indemnify the other and the other's partners, affiliates, officers, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any warranty or agreement contained in this paragraph. "Hazardous Material" shall mean any substance, chemical or waste identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (including petroleum and asbestos).

24. CONDITION OF PREMISES UPON TERMINATION: Within ninety (90) days after termination or expiration of this Agreement, LESSEE at its sole cost and expense shall remove all of LESSEE's Equipment from the Premises and, to the extent reasonably requested by LESSOR, restore the Premises as nearly as possible to the condition in which it existed immediately prior to the Commencement Date, including, but not limited to, removing rooftop mounts and tie downs (if applicable), electrical conduits, cabling and switches, whether underground or above-ground, reasonable wear and tear excepted. LESSEE shall keep on file with LESSOR either (i) a letter of credit, or (ii) a performance bond executed by an admitted surety licensed to do business in California, substantially in the respective forms attached to this Agreement as Exhibit "C," either of which shall be in the amount of Twenty-Five Thousand Dollars and 00/100 (\$25,000.00) for the cost of removal of LESSEE's Equipment and restoration of the Premises in the event LESSEE cannot or will not restore the Premises.

25. REAL ESTATE TAXES: LESSEE shall pay as additional rent any documented increase in real estate taxes levied against the leased Property which are directly attributable to the improvements constructed by LESSEE. LESSOR shall provide to LESSEE a copy of any notice, assessment or billing relating to real estate taxes for which LESSEE is responsible under this Agreement within sixty (60) days of receipt of the same by LESSOR. LESSEE shall have no obligation to make payment of any real estate taxes until LESSEE has received the notice, assessment or billing relating to such payment as set forth in the preceding sentence. In the event LESSOR fails to provide to LESSEE a copy of any real estate tax notice, assessment or billing within the sixty (60) day period set forth herein, LESSEE shall be relieved of any obligation or responsibility to make payment of real estate taxes referred to in the notice, assessment or billing which was not timely delivered by LESSOR to LESSEE.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any real estate tax assessment or billing for which LESSEE is wholly or partly responsible for payment under this Agreement. LESSOR shall reasonably cooperate with LESSEE in filing, prosecuting and perfecting any appeal or challenge to real estate taxes as set forth in the preceding sentence, including but not limited to, executing any consent to appeal or other similar document.

26. ASSIGNMENT FOR BENEFIT OF CREDITORS, INSOLVENCY, OR BANKRUPTCY: Appointment of a receiver to take possession of LESSEE's assets, LESSEE's general assignment for benefit of creditors, or LESSEE's insolvency or taking or suffering action under the Bankruptcy Act is a breach of this Agreement and this Agreement shall terminate.

27. DEFAULT: Notwithstanding any other provision to the contrary contained herein this Agreement, in the event there is a default by the LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of the Lease Fee, the LESSOR shall give LESSEE written notice of such default. After receipt of such written notice, the LESSEE shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default, provided the LESSEE shall have such extended period as may be required beyond the

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thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The LESSOR may not maintain any action or effect any remedies for default against the LESSEE unless and until the LESSEE has failed to cure the same within the time periods provided in this paragraph. The laws of the State of California shall govern this Agreement. The duties and obligations of the parties created hereunder are performable in Monterey County, and such county shall be the venue for any action or proceeding that may be brought or arise by reason or connection with this Agreement.

28. RECORDING: LESSOR agrees to execute a Memorandum of this Agreement that LESSEE may record with the appropriate Recording Officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either term or Lease Fee payments.

29. SUBORDINATION AND NON-DISTURBANCE: At LESSOR's option, this Agreement shall be subordinate to any mortgage or other security interest by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, every such mortgage or other security interest shall recognize the validity of this Agreement in the event of a foreclosure of LESSOR's interest and also LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement. LESSEE shall execute whatever instruments may reasonably be required to evidence this subordination clause. In the event the Property is encumbered by a mortgage or other security interest, the LESSOR immediately after this Agreement is executed, will obtain and furnish to LESSEE a non-disturbance agreement for each such mortgage or other security interest in recordable form. In the event the LESSOR defaults in the payment and/or other performance of any mortgage or other security interest encumbering the Property, LESSEE may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or security interest and the LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

30. DRUG FREE WORKPLACE: LESSEE and LESSEE's employees shall comply with LESSOR's policy of a drug free workplace. Neither LESSEE nor LESSEE's employees shall unlawfully manufacture, distribute, dispense, possess, or use controlled substances, including but not limited to marijuana, heroin, cocaine, methamphetamine, barbiturates or amphetamines, at any of LESSEE's facilities or LESSOR's facilities or worksites. If any employee of LESSEE is found to be under the influence of or in possession of any illegal substance at or on the Premises or Property, and that employee, during the course of their employ with LESSEE, are convicted or plead nolo contendere to a criminal substance abuse statute, LESSEE shall be responsible for notifying the LESSOR within seventy-two (72) hours of becoming aware of said conviction or plea. Violation of this notification provision shall constitute grounds for termination of this Agreement.

31. HOLDING OVER: In the event that LESSEE shall hold over after expiration of the term of this Agreement or any extension or renewal thereof, with the consent, express or implied, of LESSOR, such holding over shall be deemed merely a tenancy from month-to-month on the terms, covenants, and conditions, so far as applicable, and subject to the same exceptions and reservations, as herein contained, until such tenancy is terminated in a manner prescribed by law.

32. CONFIDENTIALITY: As a result of shared access to some common facilities and communications infrastructure it is paramount that the confidentiality of information being transmitted and the security provisions protecting those communications facilities systems be maintained in the strictest confidence and only be released on a need-to-know basis. Therefore, the parties agree to

Initials 

Attachment "A"— Wireless Communication Site Lease Agreement

maintain a mutual Non-Disclosure Agreement throughout the term of this lease agreement and to extend beyond any termination of this lease agreement for the period of time established in the mutual Non-Disclosure Agreement (see ATTACHMENT "A" Exhibit D).

33. MISCELLANEOUS:

- a) LESSEE agrees to abide by any future rules and regulations which may be adopted by LESSOR as long as they do not cause material interference with LESSEE's operations at the Premises. Such rules and regulations shall be reasonably developed by LESSOR and shall be promptly provided to LESSEE in a written form.
- b) LESSOR shall not provide security, patrolled or otherwise, for LESSEE's Equipment and improvements at the Premises.
- c) This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. Any amendments to this Agreement must be in writing and executed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates appearing below their respective authorized signatures.

LESSOR: (County of Monterey)

By: 
Title: Purchasing Manager

Date: 6-7-06

APPROVED AS TO FORM: (County Counsel)

By: 
Title: Deputy County Counsel

Date: 5-31-06

LESSEE: (New Cingular Wireless PCS, LLC)

By: 

Title: N. CAUF MARKET MGR

Date: 5/8/06

(Location # _____)

Initials  

Attachment "A" — Wireless Communication Site Lease Agreement

Exhibit A

(Legal Description of the Property)

Real Property in the City of Salinas, County of Monterey, State of California, described as follows:

See insert(s)

Initials

Handwritten initials in black ink, appearing to be 'EVE' followed by a stylized signature.

IFB# 9795

EXHIBIT A

Legal Description of the Property

The Land is described and/or depicted as follows:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOW:

A PORTION OF THAT CERTAIN 559.016 ACRE PARCEL AS SHOWN ON THE RECORD OF SURVEY MAP FILED IN VOLUME 11 OF SURVEY MAPS AT PAGE 29, RECORDS OF MONTEREY COUNTY, CALIFORNIA, AND AS DESCRIBED IN THE QUITCLAIM DEED EXECUTED BY THE UNITED STATES OF AMERICAN, ACTING BY AND THROUGH THE SECRETARY OF THE INTERIOR, ACTING BY AND THROUGH THE DRIECTOR, BUREAU OF OUTDOOR RECREATION, TO MONTEREY COUNTY, CALIFORNIA, RECORDED NOVEMBER 14, 1974 IN REEL 944 AT PAGE 1076, OFFICIAL RECORDS, AND AS AMENDED BY AMENDMENT TO QUITCLAIM DEED RECORDED DECEMBER 11, 1975 IN REEL 1021 AT PAGE 190, OFFICIAL RECORDS, AND FURTHER AMENDED BY AMENDMENT TO QUITCLAIM DEED RECORDED OCTOBER 14, 1986 IN REEL 2012 AT PAGE 235, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL THAT CERTAIN REAL PROPERTY AS DESCRIBED IN A GRANT DEED EXECUTED BY THE COUNTY OF MONTEREY, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, TO THE UNITED STATES OF AMERICA, RECORDED MAY 15, 1985 IN REEL 1839 AT PAGE 420, OFFICIAL RECORDS.

APN 173-011-023 (PORTION)
173-011-025
173-011-026

Attachment "A"—Wireless Communication Site Lease Agreement

Exhibit B

(Sketch of the Premises)

See insert(s)

Initials

Handwritten initials and a signature in black ink.

IFB# 9795

Attachment "A"— Wireless Communication Site Lease Agreement

Exhibit C

(Bond Form)

Amount: \$ _____

Bond No.: _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____ hereinafter called Principal, and _____, an admitted surety insurer in the State of California, hereinafter called Surety, are held and firmly bound unto _____), as Oblige, hereinafter called the Oblige, in the sum of **Twenty-Five Thousand and 00/100 Dollars (\$25,000.00)** for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a written wireless communication site lease agreement with Oblige dated _____ related to **1410 Natividad Road, Salinas, California** and as a requirement of such agreement the Principal is obligated to remove the communication equipment from property located at **1410 Natividad Road, Salinas, California** upon discontinuance of service.

WHEREAS, the Oblige has agreed to accept this bond as security for performance of Principal's obligations under said agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall perform its obligations under said agreement, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED HOWEVER, that this bond is executed subject to the following express provisions and conditions:

1. In the event of default by the Principal, Oblige shall deliver to Surety a written statement of the details of such default within thirty (30) days after the Oblige shall learn of the same, such notice to be delivered by certified mail to address of said Surety as stated herein.
2. No claim, action, suit or proceeding shall be instituted against this bond unless same be brought or instituted and process served within one year after termination or cancellation of the agreement.
3. No right of action shall accrue on this bond for the use of any person, corporation or entity other than the Oblige named herein or the heirs, executors, administrators or successors of the Oblige.

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Attachment "A" — Wireless Communication Site Lease Agreement

4. The aggregate liability of the surety is limited to the penal sum stated herein regardless of the number of years this bond remains in force or the amount or number of claims brought against this bond.

If suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all litigation expenses incurred by the Obligee in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, the above bounded Principal and Surety have hereunto signed and sealed this bond effective this ____ day of _____, 2006.

Principal

Insurance Company

By: _____

By: _____

Title: _____

Title: _____

Attach a copy of authorization for signatory for Principal and an original or certified copy of unrevoked appointment, power of attorney, bylaws, or other instrument entitling or authorizing person executing bond on behalf of surety to do so.

Initials

Attachment "A"— Wireless Communication Site Lease Agreement

Exhibit D

NON-DISCLOSURE AGREEMENT

In order to protect certain Confidential Information (as defined below), New Cingular Wireless PCS, LLC, for itself and its subsidiaries and affiliates, ("Cingular") and County of Monterey, for itself and its subsidiaries and affiliates ("Participant"), individually referred to as "Party" and collectively referred to as the "Parties" agree that:

1. **Effective Date.** The Effective Date of this Non-Disclosure Agreement ("Agreement") is on the date this Agreement is fully executed.
2. **Mutual Agreement.** The Agreement shall apply to all Confidential Information disclosed either intentionally, or unintentionally.
3. **Additional Addenda.** In addition to this Agreement, the Parties may agree to additional matters in the form of fully executed Addenda that incorporate the terms of this Agreement.
4. **Confidential Information.** Confidential Information disclosed under this Agreement ("Confidential Information") is defined as personally identifiable information of a financial, healthcare, criminal justice, or other form; facility and electronic communications security provisions, tools, techniques, and methods; product and roadmap information; financial/pricing information; customer and vendor related data; services/support and other business information including, but not limited to, software, strategies, plans, techniques, drawings, designs, specifications, technical or know-how data, research and development, ideas, inventions, patent disclosures that may be disclosed between the parties whether in written, oral, electronic, website-based, or other form. This Agreement also includes Confidential Information acquired during any facilities access, tours, or conduct of business between the Parties.
5. **No Use of Name.** Without the prior written consent of the other Party, both Parties agree not to issue or release any articles, advertising, publicity or other matter relating to any Confidential Information (including the fact that a meeting or discussion has taken place between the Parties) or mentioning or implying the name of the other Party, except as may be required by law and then only after providing the other Party with an opportunity to review and comment thereon.
6. **Term and Purpose.** This Agreement shall remain in effect until it is terminated by either Party with thirty (30) days prior written notice. The terms and conditions of this Agreement shall survive any such terminations with respect to Confidential Information that is disclosed prior to the effective date of termination. The Parties receiving Confidential Information (each, a "Recipient") from the other Parties disclosing Confidential Information (each, a "Discloser") will use the Confidential Information only for the purpose of and in connection with the Parties' business relationship.
7. **Protection Period and Return of Information.** Unless the Parties otherwise agree in writing, a Recipient's duty to protect Confidential Information expires as defined by law or regulation but in no case sooner than three (3) years from the date of disclosure. A Recipient, upon Discloser's written request, will promptly return all Confidential Information received from the Discloser, together with all copies, or certify in writing that all such Confidential Information and copies thereof have been destroyed.
8. **Permitted Use.** A Recipient will use the same degree of care, but no less than a reasonable degree of care, as the Recipient uses with respect to its own similar information to protect the Confidential Information and to prevent (a) any use of Confidential Information not authorized in this Agreement, (b) dissemination of Confidential Information to any employee of Recipient without a need to know, (c) communication of Confidential Information to any third party or (d) publication of Confidential Information.
9. **Markings.** A Recipient will have a duty to protect Confidential Information (a) if it is marked or accompanied by documents clearly and conspicuously designating them as "confidential" or the equivalent, or (b) if it is identified by the Discloser as confidential before, during or promptly after the

Initials 

IFB# 9795

Attachment "A"—Wireless Communication Site Lease Agreement

- presentation or communication, or (c) if unmarked and unintentionally intercepted or received as a part of the parties business relationship.
10. **Exclusions.** This Agreement imposes no obligation upon a Recipient with respect to Confidential Information which (a) the Recipient can demonstrate was already in its possession before receipt from the Discloser; (b) is or becomes publicly available through no fault of the Recipient; (c) is rightfully received by the Recipient from a third party without a duty of confidentiality; (d) is disclosed by the Discloser to a third party without a duty of confidentiality on the third party; (e) is independently developed by the Recipient without a breach of this Agreement; or (f) is disclosed by the Recipient with the Discloser's prior written approval. If a Recipient is required by a government body or court of law to disclose Confidential Information, the Recipient agrees to give the Discloser reasonable advance notice so that Discloser may contest the disclosure or seek a protective order.
 11. **Disclaimers.** Each Discloser warrants that it has the right to disclose its Confidential Information when done so intentionally. No other warranties are made and no responsibility or liability is or will be accepted by either Party or as to the accuracy or completeness of the Confidential Information.
 12. **No Obligation.** This Agreement imposes no obligation on a Party to exchange Confidential Information or to purchase, sell, license, transfer or otherwise make use of any technology services or products.
 13. **Export Compliance.** A Recipient will adhere to all applicable laws and regulations of the U.S. Export Administration and will not export or re-export any technical data or products received from a Discloser, or the direct product of such technical data, to any proscribed country listed in the U.S. Export Administration regulations, or foreign national thereof, unless properly authorized by the U.S. Government.
 14. **Ownership.** No Party acquires any intellectual property rights under this Agreement except the limited rights necessary to carry out the purposes as set forth in this Agreement.
 15. **Remedies.** Each Party acknowledges that damages for improper disclosure of Confidential Information may be irreparable; therefore, the injured Party may be entitled to seek equitable relief, including injunction and preliminary injunction, in addition to all other remedies available at law or in equity.
 16. **Governing Law.** This Agreement is made under, and will be construed according to, the laws of the State of California.
 17. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable in whole or in part, the Parties agree the remaining provisions of this Agreement shall remain valid and enforceable to the maximum extent compatible with existing law.
 18. **Miscellaneous.** The obligations and duties imposed by this Agreement with respect to any Confidential Information may be enforced by the Discloser of such Confidential Information against any and all Recipients of such Confidential Information. This Agreement does not create any agency or partnership relationship. This Agreement will not be assignable or transferable without the prior written consent of the other Party. All additions or modifications to this Agreement must be made in writing and must be signed by all Parties. Each Party agrees that facsimile signatures will have the same legal effect as originals signatures and may be used as evidence of execution.

New Cingular Wireless PCS, LLC

By: [Signature]

Name: F. KEVIN FLYNN

Title: N. CALIF MARKET MGR

Address: 4420 ROSANDRO DRIVE BLDG 2 # 3137

City, State, Zip: PLASANTON, CA 94588

Date: 5/8/06

County of Monterey

By: [Signature]

Name: Michael Dan

Title: PURCHASING MANAGER

Address: COUNTY OF MONTEREY

City, State, Zip:

Date: 6/7/06

Initials [Signature]