

Agenda Item No.: 5.1
Agenda Date: 10/16/24
Reviewed By: PH/JS

Subject: Authorize Amendment No. 2 – Site Lease Agreement with New Cingular Wireless PCS, LLC
Mansion Hill Tank Site

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input checked="" type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL			
<i>Expenditures?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<i>Budgeted?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<i>Estimated Amount:</i> \$ _____			Excludes sales tax

ATTACHMENTS:

1. Resolution 24-10-16A
2. Attachment 1: Amendment No. 2 to Lease Agreement

COMMENTS:

AT&T, through its subsidiary New Cingular Wireless PCS (Licensee), holds an existing cellular lease with Highline Water District at the Mansion Hill Tank Site, 21420 31st Ave S, SeaTac, WA 98198. The Licensee is requesting to install a backup generator to support its current equipment. Highline staff has reviewed the proposed installation and has no objections. However, the installation will require additional leased space for the generator.

The Licensee is requesting an expansion of the use and area of the Premises as detailed on Exhibit B-2 of Attachment 1. District staff consents to this expansion, subject to the Licensee's payment of additional Base Rent in the amount of \$2,512.74/year, as outlined in the proposed amendment to the Agreement.

Staff is seeking board approval of the amended Agreement and authorization for the General Manager to execute the amendment on behalf of the district.

HIGHLINE WATER DISTRICT KING COUNTY, WASHINGTON

RESOLUTION 24-10-16A

RESOLUTION AUTHORIZING AMENDMENT NO. 2 TO COMMUNICATIONS SITE USE AND LICENSE AGREEMENT WITH NEW CINGULAR WIRELESS PCS AT THE MANSION HILL TANK SITE – 21420 31ST AVENUE S, SEATAC, WA 98188

WHEREAS, Highline Water District (District) and New Cingular Wireless PCS, LLC (Licensee) entered into a Communications Site Use and License Agreement effective June 20, 2018, as amended by Amendment No. 1 to Communications Site Use and License Agreement effective June 18, 2019 (“Amendment No. 1”) (collectively, the “Agreement”), whereby the District authorized the Licensee to install and operate communication equipment and cabling within a defined License Area located at 21420 31st Ave S, SeaTac, King County, Washington; and,

WHEREAS, the Licensee has requested additional leased space to install a backup generator to support its existing equipment, as detailed in Exhibit B-2 attached to Amendment No. 2 to the Agreement; and,

WHEREAS, the District will amend the Agreement to allow the expansion of the Premises, subject to the condition that Section 2.b of the Agreement be amended to provide for the payment of adjusted Base Rent by the Licensee for the expanded use of the Premises; and,

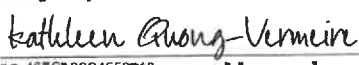
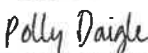
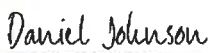
WHEREAS, the annual Base Rent under the Agreement will be increased by Two Thousand Five Hundred Twelve and 74/100 Dollars (\$2,512.74), resulting in a total annual Base Rent of Forty-Two Thousand Eight Hundred Eighteen and 95/100 Dollars (\$42,818.95).

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of Commissioners approves Amendment No. 2 to the Communication Site Use and Lease Agreement between Highline Water District and New Cingular Wireless, PCS, LLC, as attached hereto.
2. The General Manager is hereby authorized to execute Amendment No. 2 to the Agreement on behalf of the District and to take such further actions as may be necessary to implement and administer the terms of the amendment.

ADOPTED BY THE BOARD OF COMMISSIONERS of Highline Water District, King County, Washington, at an open public meeting held this **16th** day of **October 2024**.

BOARD OF COMMISSIONERS

Signed by:

 Kathleen Quong-Vermeire, President
 Signed by:

 Polly Daigle, Commissioner
 Signed by:

 Daniel Johnson, Commissioner

Signed by:
 Vince Koester, Secretary
 Signed by:

 Todd Fultz, Commissioner

**AMENDMENT NO. 2 TO
COMMUNICATIONS SITE USE AND LICENSE AGREEMENT**

THIS AMENDMENT NO. 2 TO COMMUNICATIONS SITE USE AND LICENSE AGREEMENT (“**Amendment No. 2**” or “**Amendment**”), dated as of the later of the signature dates below (the “**Effective Date**”), is by and between HIGHLINE WATER DISTRICT, a Washington municipal corporation, having its principal place of business at 23828 – 30th Ave. S, Kent, Washington 98032 (herein (“**District**” or “**Licensor**”), and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company, having its principal place of business at 1025 Lenox Blvd. NE, 3rd Floor, Atlanta, GA 30319 (“**Licensee**”) (individually a “**Party**” and collectively the “**Parties**”).

WHEREAS, District and Licensee entered into a Communications Site Use and License Agreement effective June 20, 2018, as amended by Amendment No. 1 to Communications Site Use and License Agreement effective June 18, 2019 (“**Amendment No. 1**”) (collectively, the “**Agreement**”), whereby District authorized Licensee to use for installation of Licensee’s ground based communication equipment and cabling to Equipment on the License Area, as defined therein, certain Premises therein described (the “**Premises**”) that are a portion of the Property located at 21420 – 31st Avenue S, Seattle, King County, Washington (“**Property**”). The Property is legally described on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, Licensee desires to expand the use and/or area of the Premises as described and depicted on **Exhibit B-2** attached hereto and incorporated herein by this reference (the “**Premises Expanded Use**”), and District desires to consent to the Licensee’s expansion or further use of the Premises, subject to Licensee’s payment of additional Base Rent to the District for the expansion or further use of the Premises by the amendment of the Agreement; and

WHEREAS, the current Base Rent payable under the Agreement is Forty Thousand Three Hundred Six and 21/100 Dollars (\$40,306.21) per year; and

WHEREAS, District is willing to consent to the amendment of the Agreement to provide for and allow the Premises Expanded Use on the terms and conditions set forth below, on the condition that Section 2.b of the Agreement be amended to provide for the payment of adjusted Base Rent by the Licensee to the District for the Premises Expanded Use.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, the Parties agree that the recitals set forth above are incorporated herein as if set forth in their entirety and further agree as follows:

1. **Premises; Licensee’s Equipment.** Section 1.a of the Agreement and Exhibit D to the Agreement, Licensee’s Equipment, are hereby amended as set forth on **Exhibit B-2** hereto. Exhibit B-2 further supplements Section 1.a and Exhibit D to the Agreement and shall not be deemed to supersede or otherwise modify Section 1.a or Exhibit D or any part thereof, except to the extent specifically set forth in Exhibit B-2.

2. **Base Rent.** Section 2 of the Agreement, as amended by Section 2 of Amendment No. 1 relating to the current Base Rent payable by Licensee to the District, is hereby amended to provide the annual Base Rent payable under the Agreement, as of the Effective Date of this Amendment, shall be increased from Forty Thousand Three Hundred Six and 21/100 Dollars (\$40,306.21) by the sum of Two Thousand Five Hundred Twelve and 74/100 Dollars (\$2,512.74) to the amount of Forty-Two Thousand Eight Hundred Eighteen and 95/100 Dollars (\$42,818.95) ("**Adjusted Base Rent**") paid on April 1 of each year. Within thirty (30) days of the Effective Date, Licensee shall pay to District the difference in the annual Base Rent paid by Licensee prior to the Effective Date and the Adjusted Base Rent, prorated on a daily basis at the rate of Six and 88/100 Dollars (\$6.88) until April 1, 2025, when Base Rent is next due and payable by Licensee. Effective April 1, 2025, pursuant to Section 2.b of the Agreement, the Base Rent shall be adjusted to Forty-Four Thousand Three Hundred Seventeen and 02/100 Dollars (\$44,317.02). Thereafter, the Base Rent shall be periodically adjusted during the term of and as provided in the Agreement.

3. **Reaffirmation; Intention to be Bound.** Except as expressly amended by this Amendment, each and every term, condition and agreement contained in the Agreement shall remain in full force and effect. The Parties reaffirm that the representations and warranties made by each Party in the Agreement are true and accurate as of the Effective Date. The Parties executing this Amendment No. 2 on behalf of themselves, their assigns and successors, hereby acknowledge and reaffirm their intention to be bound by the terms and conditions of the Agreement.

4. **Recitals; Capitalized Terms.** The recitals set forth above are a part of this Amendment. Unless otherwise defined herein, capitalized terms used in this Amendment have the meanings assigned to them in the Agreement.

5. **Amendment Fee.** In consideration of the District's agreement to amend the Agreement as provided herein, Licensee has previously paid and reimbursed the District its administrative and legal fees and costs in the total amount of Three Thousand Four Hundred Seven and 24/100 Dollars (\$3,407.24). This payment has been received and acknowledged.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused their properly authorized representatives to execute this Amendment No. 2 on the dates set forth below.

DISTRICT:

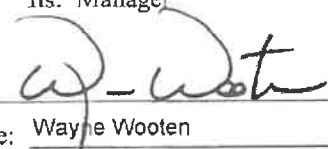
HIGHLINE WATER DISTRICT,
a Washington municipal corporation

By: _____
Name: _____
Title: _____
Date: _____

LICENSEE:

NEW CINGULAR WIRELESS PC, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation,
a Delaware corporation
Its: Manager

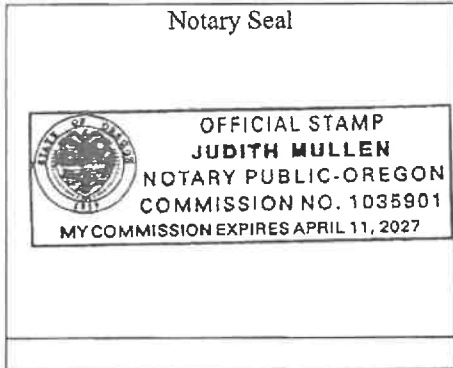
By: 
Name: Wayne Wooten
Title: Director
Date: 10-2-24

LICENSEE ACKNOWLEDGEMENT

STATE OF OREGON)
) ss.
COUNTY OF WASHINGTON)

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

DATED: 10/2/24



Judith Mullen
(Signature of Notary)
Judith Mullen
(Legibly Print or Stamp Name of Notary)
Notary Public in and for the
State of OREGON
My Commission expires:
4/11/2027 -

EXHIBIT A

Amendment No. 2 to Communications Site Use and License Agreement

Legal Description

THE NORTH 396 FEET OF THE WEST $\frac{3}{4}$ OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE EAST 7.25 FEET OF THE NORTH 246.50 FEET OF SAID WEST $\frac{3}{4}$;

AND EXCEPT ANY PORTION LYING WITHIN PRIMARY STATE HIGHWAY NO. 1 (INTERSTATE 5);

TOGETHER WITH AN EASEMENT OVER THE WEST 30 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 9.

EXHIBIT B-2

Amendment No. 2 to Communications Site Use and License Agreement

Description of Premises Expanded Use

[See attached]

No additional equipment or modifications are authorized unless approved in accordance with Section 1h of the Communications Site Use and License Agreement.

