



**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**  
County Manager's Office



**DATE:** July 11, 2011  
**BOARD MEETING DATE:** July 26, 2011  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors

**FROM:** Steve Alms, Manager, Real Property Division

**SUBJECT:** First Amendment to Permit Agreement with New Cingular Wireless PCS., LLC. for the operation of a wireless communication facility on the roof of the Community Services Building located at 2415 University Ave, East Palo Alto (Permit No. 5282)

**RECOMMENDATION:**

Adopt a Resolution authorizing the:

1. President of the Board of Supervisors to execute a First Amendment to Permit Agreement with New Cingular Wireless PCS., LLC. for the operation of a wireless communication facility on the roof of the Community Services Building located at 2415 University Ave, East Palo Alto, increasing the Premises area, authorizing the installation of new equipment and increasing the monthly Base Permit Fee amount by \$875.00 to \$4,290.95; and
2. County Manager or his designee to accept or execute notices, options and documents associated with the First Amendment and Agreement including, but not limited to, extension or termination of the Agreement under the terms set forth therein.

**BACKGROUND:**

In 2000, as authorized by Resolution No. 64454, the County and Bay Area Cellular Telephone Company ("BACTC") entered into a Permit Agreement for the installation, construction and operation of a wireless communication facility on the roof of the Community Services Building located at 2415 University Ave, East Palo Alto. BACTC was sold to New Cingular Wireless PCS, LLC ("Cingular") in 2001, and Cingular has operated the site since then. The agreement expires on May 31, 2016 and the current monthly fee of \$3,415.95 escalates annually by 4%. County and Cingular desire to amend the Permit to authorize Cingular to increase the Premises area, install additional equipment and increase the Base Permit Fee accordingly.

**DISCUSSION:**

Real Property Services has negotiated a First Amendment to Permit Agreement which increases the Premises area by 75 square feet to approximately 315 square feet and authorizes the installation of three (3) new equipment cabinets on a new steel platform, three (3) new Long Term Evolution (“LTE”) antennae, six (6) new Remote Radio Units (“RRUs”), one (1) new run of fiber/power conduit, six (6) new Remote Electrical Tilts (“RETs”) per antenna configuration, three (3) new surge suppression boxes, and one (1) new Global Positioning System (“GPS”) antenna mounted on a new outdoor cabinet. The amendment also increases the monthly Base Permit Fee amount by \$875.00 to \$4,290.95, based on Information Services Department Radio Site Equipment Rates for installed equipment. There are no other changes to the Premises or use of the facility as a result of this Amendment.

County Counsel has reviewed and approved the Permit and Resolution as to form. The Director of Public Works concurs in this recommendation. The Planning and building Department has issued a building permit for the proposed improvements.

Approval of the Permit contributes to the Shared Vision 2025 outcome of a Collaborative Community by establishing an agreement that benefits the County of San Mateo and Cingular while also benefiting the public.

**FISCAL IMPACT:**

The monthly fee of \$4,290.95 will be deposited to the Facilities Account for the Department of Public Works.

cc:/enc: Judith Holiber, Deputy County Counsel  
cc: James Porter, Director of Public Works  
Gary Behrens, Facilities Services Manager

**RESOLUTION NO. \_\_\_\_\_**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

\* \* \* \* \*

**RESOLUTION AUTHORIZING THE: 1) PRESIDENT OF THE BOARD OF SUPERVISORS TO EXECUTE A FIRST AMENDMENT TO PERMIT AGREEMENT WITH NEW CINGULAR WIRELESS PCS., LLC. FOR THE OPERATION OF A WIRELESS COMMUNICATION FACILITY ON THE ROOF OF THE COMMUNITY SERVICES BUILDING LOCATED AT 2415 UNIVERSITY AVE, EAST PALO ALTO, INCREASING THE PREMISES AREA, AUTHORIZING THE INSTALLATION OF NEW EQUIPMENT AND INCREASING THE MONTHLY BASE PERMIT FEE AMOUNT BY \$875.00 TO \$4,290.95; AND 2) COUNTY MANAGER OR HIS DESIGNEE TO ACCEPT OR EXECUTE NOTICES, OPTIONS AND DOCUMENTS ASSOCIATED WITH THE FIRST AMENDMENT AND AGREEMENT INCLUDING, BUT NOT LIMITED TO, EXTENSION OR TERMINATION OF THE AGREEMENT UNDER THE TERMS SET FORTH THEREIN. (PERMIT NO. 5282)**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

**WHEREAS**, since 2000, as authorized by Resolution No. 64098, New Cingular Wireless PCS., LLC. ("Cingular"), as successor in interest to Bay Area Cellular Telephone Company, has operated a wireless communications facility on the roof of the Community Services Building located at 2415 University Ave, East Palo Alto, and

**WHEREAS**, the current Permit expires on May 31, 2016, the current monthly Base Permit Fee of \$3,415.95 increases annually by 4%, and the County and Cingular wish to amend the agreement to increase the Premises area, install additional equipment and increase the Base Permit Fee; and

**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and acceptance a First Amendment to Permit Agreement, reference to which is hereby made for further particulars, increasing the Premises area by 75 square feet to approximately 315 square feet, authorizing the installation of three (3) new

equipment cabinets on a new steel platform, three (3) new Long Term Evolution (“LTE”) antennae, six (6) new Remote Radio Units (“RRUs”), one (1) new run of fiber/power conduit, six (6) new Remote Electrical Tilts (“RETs”) per antenna configuration, three (3) new surge suppression boxes, and one (1) new Global Positioning System (“GPS”) antenna mounted on a new outdoor cabinet and increasing the monthly Base Permit Fee from \$3,415.95 to \$4,290.95, in accordance with the terms and conditions contained in the First Amendment and Permit Agreement, and

**WHEREAS**, this Board has been presented with the Permit Agreement and has examined and approved same as to both form and content and desires to enter into same.

**NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that the President of this Board of Supervisors be, and is hereby, authorized and directed to execute said First Amendment to Permit Agreement for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President’s signature thereto; and

**IT IS FURTHER DETERMINED AND ORDERED** that the County Manager or his designee is hereby authorized to accept or execute on behalf of the County, any and all notices, options and documents associated with the First Amendment and Agreement including, but not limited to, extension or termination of the Agreement under the terms set forth therein.

\* \* \* \* \*

Cell Site # CNU1794/CCL01794  
Cell Site Name: Bay Road University  
Market: San Francisco/Sacramento  
Fixed Asset: 100907007  
Site Address: 2415 University Avenue, Palo Alto, CA 94303

**FIRST AMENDMENT TO PERMIT AGREEMENT  
No. 5282**

This First Amendment to Permit Agreement ("Amendment"), dated for reference purposes only as of July 26, 2011, is by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California ("County" or "Permitter"), and NEW CINGULAR WIRELESS PCS. LLC., a Delaware limited liability company ("Permittee").

**Recitals**

A. As authorized by San Mateo County Resolution No. 64098, County and Permittee's predecessor in interest, entered into a Permit Agreement dated for reference purposes as of November 28, 2000 (the "Agreement") for use of a portion of the building located at 2415 University Avenue, East Palo Alto, California, consisting of approximately 240 square feet of roof space, as more particularly described in such Agreement (collectively, the "Premises") for the installation, construction, operation, and maintenance of a communications facility.

B. County and Permittee desire to amend the Agreement to authorize Permittee to install additional equipment on the Premises and increase the rent due under the Agreement, otherwise under the terms and conditions set forth in the Agreement.

**Agreement**

For good and valuable consideration as hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Use**. Section 3 (Premises and Use) is hereby amended to increase the Premises to approximately three hundred and fifteen (315) square feet of space on the roof near the penthouse, and to authorize the installation of three (3) new equipment cabinets on a new steel platform, three (3) new LTE antennae, six (6) new RRUs, one (1) new run of fiber/power conduit, six (6) new RETs per antenna configuration, three (3) new surge suppression boxes, and one (1) new GPS antennae mounted on a new outdoor cabinet; all as more particularly shown on the plans dated December 14, 2010, prepared by PDC Corporation and consisting of 11 pages (T-1 through T-2, A-1 through A-7, and E-1 through E-2) the Premises, as more completely described on attached Exhibit B-1. Exhibit B-1 hereby replaces Exhibit B to the Permit. Each reference in the Permit to Exhibit B will hereafter be deemed a reference to Exhibit B-1, and each reference to the Premises shall hereafter refer to the Premises as described and/or depicted on Exhibit B-1.

All work shall be performed in accordance with Section 3c (Permittee's Improvements) of the Agreement, and coordinated with the Manager of Facilities, Maintenance and Operations for the County of San Mateo; provided, however,

Cell Site # CNU1794/CCL01794  
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that Permitter shall be deemed to have approved the work described above pursuant to this Amendment.

2. **Rent.** Any references to the Base Permit Fee of the Agreement notwithstanding; effective June 7, 2011, the Base Permit Fee shall be \$4,290.95 per month, which rate shall be subject to annual adjustment in accordance with Section 14 (Base Fee Adjustment) of the Agreement.
3. **Effective Date; Approval.** This First Amendment shall become effective (the "Effective Date") when the County Board of Supervisors adopts a resolution authorizing the execution of this First Amendment, and the First Amendment is duly executed by the County and delivered to Permittee.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AMENDMENT, PERMITTOR ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF COUNTY HAS AUTHORITY TO COMMIT COUNTY HERETO UNLESS AND UNTIL THE COUNTY BOARD OF SUPERVISORS HAS ADOPTED A RESOLUTION AUTHORIZING THE EXECUTION OF THIS FIRST AMENDMENT TO THE AGREEMENT. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF COUNTY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS AMENDMENT SHALL BE NULL AND VOID UNLESS THE BOARD OF SUPERVISORS ADOPTS A RESOLUTION AUTHORIZING THE EXECUTION OF THIS FIRST AMENDMENT. APPROVAL OF THIS AMENDMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF COUNTY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON COUNTY.

4. **NOTICES:** All notices, requests, demands and communications 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:

As to Permittee: New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Site # CNU1794 Site Name: Bay Road University (CA)  
Fixed Asset #: 10097007  
12555 Cingular Way, Suite 1300  
Alpharetta, GA 30004

With a copy to: New Cingular Wireless PCS, LLC  
Attn: Legal Department  
Re: Site # CNU1794 Site Name: Bay Road University (CA)  
Fixed Asset # 10097007  
(U. S. Mail) P. O. Box 97061

Cell Site # CNU1794/CCL01794  
Cell Site Name: Bay Road University  
Market: San Francisco/Sacramento  
Fixed Asset: 100907007  
Site Address: 2415 University Avenue, Palo Alto, CA 94303

Redmond, WA 98073-9761  
(Overnight Courier)16331 NE 72<sup>nd</sup> Way, RTC1  
Redmond, WA 98052

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

5. **Counterparts.** This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

6. **No Further Amendments; Conflicts.** All the terms and conditions of the Agreement remain in full force and effect except as expressly amended herein. The Agreement as amended by this First Amendment constitutes the entire agreement between County and Permittee and may not be modified except by an instrument in writing duly executed by the parties hereto. In the event of any conflict between the terms of the Agreement and the terms of this First Amendment, the terms of this First Amendment shall control.

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Cell Site # CNU1794/CCL01794  
Cell Site Name: Bay Road University  
Market: San Francisco/Sacramento  
Fixed Asset: 100907007  
Site Address: 2415 University Avenue, Palo Alto, CA 94303

County and Permittee have executed this First Amendment to Permit Agreement as of the date first written above.

**PERMITTEE:**  
NEW CINGULAR WIRELESS PCS LLC,  
a Delaware Limited Liability Company

By: AT&T Mobility Corporation  
Its: Manager

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

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

**COUNTY:**  
COUNTY OF SAN MATEO,  
a political subdivision of the State of California

By: \_\_\_\_\_  
Carole Groom  
President, Board of Supervisors

Attest:

\_\_\_\_\_  
Clerk of the Board

Resolution No.: \_\_\_\_\_

**EXHIBIT B-1  
PREMISES**



**Cell Site # CNU1794/CCL01794**  
**Cell Site Name: Bay Road University**  
**Market: San Francisco/Sacramento**  
**Fixed Asset: 100907007**  
**Site Address: 2415 University Avenue, Palo Alto, CA 94303**

Title: AT&T, CNU1794/CNU5472  
Pages Attached: 10 (T-1 through T-2, A-1 through A-7, E-1 through E-2)  
Prepared By: PDC Corporation  
Dated: 12/14/10