

**RESOLUTION NO. 3023**

**A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO ENTER INTO THE THIRD AMENDMENT TO COMMUNICATIONS SITE LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC.**

WHEREAS, The City of Wilsonville owns property located at 9275 SE Tauchman Road, site of the wastewater treatment plant; and

WHEREAS, the City of Wilsonville entered into a lease agreement with Salmon PCS, LLC on May 10, 2002 for placement of wireless communications facilities and apparatus. The original lease agreement had an initial five (5) years term with three (3) additional terms of five years each; and

WHEREAS, on October 15, 2002 the City and Salmon PCS LLC executed the First Amendment to the lease agreement modifying the term of the agreement to include an "Option Term" of twelve (12) consecutive months commencing on October 1, 2002 with the condition if Salmon PCS LLC exercises "the Option" the original lease will remain in effect and the commencement date of the lease becomes September 30, 2003; and

WHEREAS, by October 1, 2013 the company name changed to New Cingular Wireless PCS, LLC and the Second Amendment to the lease was executed expanding the lease area from 10 feet by 17.5 feet (175 SF) to 20 feet by 18 feet (355 SF). The term of the lease agreement remained the same and the current lease expires September 30, 2023; and

WHEREAS, New Cingular Wireless PCS, LLC has requested the City grant a Third Amendment to the lease with an initial ten (10) year term with up to two (2) additional five (5) year periods; and

WHEREAS, base rent as of October 1, 2023 will be \$2400 per month and each additional year thereafter, the rent would be subject to a 3% rate increase; and

WHEREAS, Staff researched other municipalities' wireless lease agreements and found these terms to be comparable; and

WHEREAS, recognizing the negotiations would surpass the lease expiration date, New Cingular Wireless submitted a 60 day lease extension request to which the City agreed.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. The City Manager is authorized to enter into and execute, on the behalf of the City of Wilsonville, the Third Amendment to Communication Site Lease Agreement with New Cingular Wireless PCS, LLC.

Section 2. Effective Date. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 16<sup>th</sup> day of October, 2023, and filed with the Wilsonville City Recorder this date.

DocuSigned by:  
*Julie Fitzgerald*  
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JULIE FITZGERALD, MAYOR

ATTEST:

DocuSigned by:  
*Kimberly Veliz*  
E781DE10276B498...

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Linville	Yes
Councilor Berry	Yes
Councilor Dunwell	Yes

EXHIBIT:

- A. Third Amendment to Communications Site Lease Agreement with New Cingular Wireless PCS, LLC

Cell Site No. PL99  
Cell Site Name: Wilsonville & Willamette  
Fixed Asset No. 10093109  
Market: WA/OR/AK/N. ID  
Address: 9275 SW Tauchman Road, Wilsonville, OR 97070

### THIRD AMENDMENT TO COMMUNICATIONS SITE LEASE AGREEMENT

THIS THIRD AMENDMENT TO COMMUNICATIONS SITE LEASE AGREEMENT (“**Third Amendment**”), effective October 1, 2023 (“**Effective Date**”), is by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon, having a mailing address at 29799 SW Town Center Loop East, Wilsonville, OR 97070 (hereinafter referred to as “**Lessor**”), and **New Cingular Wireless PCS, LLC**, a Delaware limited liability company, successor-in-interest to Salmon PCS, LLC, a Delaware limited liability company, having a mailing address at 1025 Lenox Park Boulevard NE, 3<sup>rd</sup> Floor, Atlanta, GA 30319 (hereinafter referred to as “**Lessee**”).

**WHEREAS**, Lessor and Lessee (or its predecessor-in-interest) entered into a Communications Site Lease Agreement, dated May 10, 2002, as amended by a certain First Amendment to Communications Site Lease Agreement, dated October 15, 2002, and the Second Amendment to Communications Site Lease Agreement, dated October 1, 2013 (hereinafter, collectively referred to as the “**Lease**”), whereby Lessor leased to Lessee certain Premises, therein described, that are a portion of Lessor’s Property located at 9275 SW Tauchman Road, Wilsonville, OR 97070; and

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

**WHEREAS**, Lessee desires to amend the Lease to extend the term of the Lease and Lessor has agreed; and

**WHEREAS**, Lessor and Lessee desire to amend the Lease to adjust the Rent in consideration of the Lease extension; and

**WHEREAS**, Lessor and Lessee desire to amend the Lease to modify the notice section thereof; and

**WHEREAS**, Lessor and Lessee, in their mutual interest, wish to amend the Lease 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, Lessor 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. **Extension of Term.** The Term of the Lease shall be extended to provide that the Lease has a new extension term of ten (10) years (“**New Extension Term**”), commencing on October 1, 2023. If mutually agreed upon, in writing via letter signed by Lessee and countersigned by Lessor, the parties have the option to renew this Lease for up to two (2) additional five (5) year periods. Such option(s) must be fully executed by the parties no later than sixty (60) days prior to the end of the then-current period. Lessor agrees and acknowledges that, except that as such permitted use or other rights may be amended herein,

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Lessee may continue to use and exercise its rights under the Lease as permitted prior to the New Extension Term.

2. **Rent.** Commencing on October 1, 2023, the initial Rent payable under the Lease shall be Two Thousand Four Hundred and 00/ 100 Dollars (\$2,400.00) per month, due and payable on the first of each month, for the first twelve months, and thereafter shall increase as provided in Section 3 below.

3. **Annual Rent Increase.** The Lease is amended to provide that, commencing on October 1, 2024, Rent shall increase by three percent (3%) over the Rent paid during the previous year and on an annual basis thereafter.

4. **Acknowledgement.** Lessor acknowledges that: 1) this Third Amendment is entered into of the Lessor's free will and volition; 2) Lessor has read and understands this Third Amendment and the underlying Lease and, prior to execution of this Third Amendment, was free to consult with counsel of its choosing regarding Lessor's decision to enter into this Third Amendment and to have counsel review the terms and conditions of this Third Amendment; 3) Lessor has been advised and is informed that should Lessor not enter into this Third Amendment, the underlying Lease between Lessor and Lessee, remains in full force and effect until it terminates on November 29, 2023.

5. **Notices.** Lessee's notice addresses are hereby amended as follows: If to

Lessee: New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Cell Site No. PL99; Cell Site Name: Wilsonville & Willamette (OR);  
Fixed Asset No. 10093109  
1025 Lenox Park Boulevard NE, 3<sup>rd</sup> Floor Atlanta, GA  
30319

with copy to: New Cingular Wireless PCS, LLC  
AT&T Legal Department – Network Attn:  
Network Counsel  
Re: Cell Site No. PL99; Cell Site Name: Wilsonville & Willamette (OR);  
Fixed Asset No. 10093109  
208 S. Akard Street Dallas, TX  
75202-4206

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

6. **Other Terms and Conditions Remain.** Except as expressly set forth in this Third Amendment, the Lease otherwise is unmodified and remains in full force and effect. Each reference in the Lease to itself shall be deemed also to refer to this Third Amendment.

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

8. **Counterparts.** This Agreement and the Memorandum of Lease may be signed in counterparts.

**IN WITNESS WHEREOF**, the parties have caused their properly authorized representatives to execute this Third Amendment to be effective as of the date first written above.

**LESSOR:**

CITY OF WILSONVILLE,  
a municipal corporation of the State of Oregon

By: \_\_\_\_\_  
Bryan Cosgrove  
As Its: City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Guile-Hinman, City Attorney

**LESSEE:**

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

By: AT&T Mobility Corporation  
Its: Manager

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

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

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