

# 13-359  
7/24/2014

Market: Northern California  
Cell Site Number: CNU2709  
Search Ring Name: Tulare St. & Fulton Mall  
Cell Site Name: Tulare St. & Fulton Mall (CA)  
Fixed Asset Number: 10150755  
State: California  
County: Fresno

## OPTION AND STRUCTURE LEASE AGREEMENT

THIS OPTION AND STRUCTURE LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by City of Fresno, a municipal corporation, having a mailing address of 2600 Fresno Street, Room 4019, Fresno, CA 93721 ("**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Suite 13F, West Tower, Atlanta, GA 30324 ("**Tenant**").

### BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, as described on **Exhibit 1**, improved with a structure (the "**Structure**") together with all rights and privileges arising in connection therewith, located at 801 Van Ness Avenue, in the City and County of Fresno, State of California 93721 [APN 468-255-11T], and at an Unaddressed Property in the City and County of Fresno, State of California [APN: 468-255-15T] (collectively, the "**Property**"). Tenant desires to use a portion of the Property in connection with its federally licensed communications business. Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

#### 1. OPTION TO LEASE.

(a) Landlord grants to Tenant an option (the "Option") to lease a portion of the Property consisting of:

(i) approximately 475 square feet including the air space above such rooftop space, as described on attached Exhibit 1, for the placement of Tenant's Communication Facility;

(ii) space for any structural steel or other improvements to support Tenant's equipment (collectively, the space referenced in (i) and (ii) is the "Equipment Space");

(iii) those certain spaces on the Structure's rooftop and/or locations, as generally depicted on Exhibit 1 annexed hereto and made a part hereof, where Tenant shall have the right to install its antennas and other equipment (collectively, the "Antenna Space"); and

(iv) those certain areas where Tenant's conduits, wires, cables, cable trays and other necessary connections are located between the Equipment Space and the Antenna Space, and between the Equipment Space and the electric power, telephone, and fuel sources for the Property (hereinafter collectively referred to as the "Connection Space"). Landlord agrees that Tenant shall have the right to install connections between Tenant's equipment in the Equipment Space and Antenna Space; and between Tenant's equipment in the Equipment Space and the electric power, telephone, and fuel sources for the Property, and any other improvements. Landlord further agrees that Tenant shall have the right to install, replace and maintain utility lines, wires, poles, cables, conduits, pipes and other necessary connections over or along any right-of-way extending from the aforementioned public right-of-way to the Premises. Notwithstanding the foregoing, Tenant, to the extent feasible, shall locate all lines, wires, conduits and cables on existing poles extending from the roadway into Landlord's Property. The Equipment Space, Antenna Space, and Connection Space, are hereinafter collectively referred to as the "Premises."

(b) During the Option Term, and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "Tests"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of Five Hundred and No/100 Dollars (\$500.00) within thirty (30) business days of the Effective Date. The Option will be for an initial term of one (1) year commencing on the Effective Date (the "Initial Option Term") and may be renewed by Tenant for an additional one (1) year (the "Renewal Option Term") upon written notification to Landlord and the payment of an additional Five Hundred and No/100 Dollars (\$500.00) no later than five (5) days prior to the expiration date of the Initial Option Term. The Initial Option Term and any Renewal Option Term are collectively referred to as the "Option Term."

(d) The Option may be sold, assigned or transferred at any time by Tenant to an Affiliate (as that term is hereinafter defined) of Tenant or to any third party agreeing to be subject to the terms hereof. Otherwise, the Option may not be sold, assigned or transferred without the written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. From and after the date the Option has been sold, assigned or transferred by Tenant to an Affiliate or a third party agreeing to be subject to the terms hereof, Tenant shall immediately be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Option Term, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option then Landlord leases the Premises to Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Initial Option Term or any extension thereof, this Agreement will terminate and the parties will have no further liability to each other.

(f) If during the Option Term, or during the term of this Agreement the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, Property or any of Landlord's contiguous, adjoining or surrounding property (the "Surrounding Property,") or in the event of foreclosure, Landlord shall immediately notify Tenant in writing. Landlord agrees that during the Option Term, or during the Term of this Agreement if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, Property or Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Tenant from using the Premises for the Permitted Use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

2. **PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "Communication Facility"), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Tenant or Landlord (collectively, the "Permitted Use"). Landlord and Tenant

agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's contiguous, adjoining or Surrounding Property as described on **Exhibit 1** as may reasonably be required during construction and installation of the Communication Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, and to make other improvements, alterations, upgrades or additions appropriate for Tenant's Permitted Use, including the right to construct a fence around the Premises and undertake any other appropriate means to secure the Premises at Tenant's expense. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Communication Facility within the Premises at any time during the term of this Agreement. Tenant will be allowed to make such alterations to the Property in order to ensure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Tenant desires to modify or upgrade the Communication Facility, in a manner that requires an additional portion of the Property (the "**Additional Premises**") for such modification or upgrade, Landlord agrees to lease to Tenant the Additional Premises, upon the same terms and conditions set forth herein, except that the Rent shall increase, in conjunction with the lease of the Additional Premises by the amount equivalent to the then-current per square foot rental rate charged by Landlord to Tenant times the square footage of the Additional Premises. Landlord agrees to take such actions and enter into and deliver to Tenant such documents as Tenant reasonably requests in order to effect and memorialize the lease of the Additional Premises to Tenant.

3. **TERM.**

(a) The initial lease term will be five (5) years (the "**Initial Term**"), commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option (the "**Term Commencement Date**"). The Initial Term will terminate on the fifth (5<sup>th</sup>) anniversary of the Term Commencement Date.

(b) This Agreement will automatically renew for four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or then-existing Extension Term.

(c) Unless (i) Landlord or Tenant notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, then upon the expiration of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rental during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the Term (the "**Term**").

4. **RENT.**

(a) Commencing on the first day of the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay Landlord on or before the fifth (5<sup>th</sup>) day of each calendar month in advance One Thousand and No/100 Dollars (\$1,000.00) (the "**Rent**"), at the address set forth above. In any partial month occurring after the Rent Commencement Date, Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within forty-five (45) days after the Rent Commencement Date.

(b) In year one (1) of each Extension Term, the monthly Rent will increase by seven and one-half percent (7½%) over the Rent paid during the previous five (5) year term.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord 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 Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of this Agreement.

5. **APPROVALS.**

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises and Property for Tenant's Permitted Use and Tenant's ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for Tenant's Permitted Use under this Agreement and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

6. **TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any termination provision contained in any other Section of this Agreement, including the following: 5 Approvals, 6(a) Termination, 6(b) Termination, 6(c) Termination, 6(d) Termination, 11(d) Environmental, 18 Condemnation, or 19 Casualty.

7. **INSURANCE.** The use of Landlord grounds and facilities requires that Tenant shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) eligible by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by Landlord's Risk Manager or his/her designee. The following policies of insurance are required:

(i) **COMMERCIAL GENERAL LIABILITY** insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability with limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury, \$2,000,000 aggregate for products and completed operations and \$2,000,000 general aggregate.

(ii) **COMMERCIAL AUTOMOBILE LIABILITY** insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for "any auto" with limits of liability of not less than \$1,000,000 per accident for bodily and property damage.

or

**Only required if automobiles are to be operated on Landlord's property.**

(iii) **WORKERS' COMPENSATION** insurance as required under the California Labor Code.

(iv) **EMPLOYERS' LIABILITY** insurance with minimum limits of \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy limit. **Only required if Tenant has employees.**

Tenant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Tenant shall also be responsible for payment of any self-insured retentions.

Required coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice has been given to the Landlord by Tenant of any required insurance that is not replaced. Upon issuance by the insurer, broker or agent of a notice of cancellation, non-renewal or reduction in coverage or limits, Tenant shall furnish Landlord with a new certificate and applicable endorsements for such policy(ies). **In the event any policy(ies) are due to expire during the use of the Landlord's grounds and facilities, Tenant shall provide a new certificate and all applicable endorsements evidencing renewal of such policy(ies) not less than 10 calendar days prior to the expiration date of the expiring policy(ies).**

The General Liability, Automobile Liability insurance policies shall name Landlord, its officers, officials, agents, employees and volunteers as an additional insureds. Tenant's insurance shall be primary as respects to the Landlord, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by Landlord, its officers, officials, employees, agents and volunteers shall be excess of Tenant's insurance and not contribute with it. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to Landlord, its officers, officials, agents, employees and volunteers. **Tenant shall have furnished Landlord with the certificate(s) and applicable endorsements for ALL required insurance fourteen (14) days prior to the use of Landlord's grounds and facilities.**

If Landlord has tendered a claim to Tenant for defense and indemnity and Tenant or its insurer has denied coverage or issued a Reservation of Rights letter to Landlord, upon written request, Tenant shall immediately furnish Landlord with a complete copy of the applicable insurance policy including all applicable endorsements. This requirement shall survive the use of Landlord's grounds and facilities.

If at any time during the use of Landlord's grounds and facilities, Tenant fails to maintain the required insurance in full force and effect, the use of Landlord's grounds and facilities shall be discontinued immediately until notice is received by Landlord that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to Landlord.

Tenant, in its sole discretion retains the right to self-insure any of the insurance required by this Agreement under the same terms and conditions outlined above, provided that Tenant (i) or its parent company maintains a minimum net worth of Five Hundred Million and No/100 Dollars (\$500,000,000.00) throughout the Term of this Agreement (ii) maintains sufficient capital reserves as approved annually by Ernst & Young, or any successor auditing company; (iii) uses an independent third party administrator to manage claims; and (iv) assumes defense obligations as required by the indemnification clause of this Agreement. In the event Tenant elects to self-insure its obligation to include Landlord as an additional insured, the following provisions apply: Landlord shall (i) promptly and no later than thirty (30) days after notice thereof provide Tenant with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Tenant with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) not settle any such claim, demand, lawsuit, or the like without the prior written consent of Tenant; and (iii) fully cooperate with Tenant in the defense of the claim, demand, lawsuit, or the like.

**NOTE:** A Certificate of Insurance is not acceptable, in lieu of the additional insured, primary insurance and/or waiver of subrogation endorsements required above. The Certificate of insurance **must** be accompanied by the additional insured, primary insurance and/or waiver of subrogation endorsements.

## 9. INDEMNIFICATION.

(a) Tenant agrees to indemnify, defend and hold Landlord, its officers, officials, employees, agents and volunteers (collectively "**Landlord Parties**") harmless from and against any and all loss, liability, fines, penalties, forfeitures, demands, actions and suits in law or equity, including reasonable attorneys' fees and court/litigation costs, other costs and damages [whether in contract, tort or strict liability including, but not limited to, personal injury, death at any time, and property damages] (collectively "**Claims**") incurred by Landlord Parties, or any of them, arising or alleged to have arisen (i) directly from Tenant's performance of this Agreement including, but not limited to the installation, use, maintenance, repair or removal of the Communication Facility or (ii) Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligence or intentional act or omission of Landlord Parties, or any of them.

(b) Landlord agrees to indemnify, defend and hold Tenant, its manager, employees, agents and contractors (collectively "**Tenant Parties**") harmless from and against any and all Claims incurred by Tenant Parties, or any of them, arising or alleged to have arisen directly from Landlord's performance of this Agreement, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant Parties or any of them.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

**10. WARRANTIES.**

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises without hindrance or ejection by any persons lawfully claiming under Landlord; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement executed by Landlord and the holder of such security interest.

**11. ENVIRONMENTAL.**

(a) Landlord represents and warrants that, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Property, as of the date of this Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("**Claims**"), to the extent arising from that party's breach of its obligations or representations under Section 11(a). Landlord agrees to hold harmless and indemnify Tenant from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Landlord for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the effective date of this Agreement or from such contamination caused by the acts or omissions of Landlord during the Term. Tenant agrees to hold harmless and indemnify Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Tenant.

(c) The indemnifications of this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous substances on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or other third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

**12. ACCESS.** At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access (“Access”) to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. As may be described more fully in **Exhibit 1**, Landlord grants to Tenant a license coupled with an interest Access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such Access at no additional cost to Tenant. Upon Tenant’s request, Landlord will execute a separate recording license evidencing this right. Landlord shall execute a letter granting Tenant Access to the Property substantially in the form attached as **Exhibit 12**; upon Tenant’s request, Landlord shall execute additional letters during the Term. Landlord acknowledges that in the event Tenant cannot obtain Access to the Premises, Tenant shall incur significant damage. If Landlord fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Tenant under this Agreement or at law or equity, Landlord shall pay Tenant, as liquidated damages and not as a penalty, \$500.00 per day in consideration of Tenant’s damages until Landlord cures such default. Landlord and Tenant agree that Tenant’s damages in the event of a denial of Access are difficult, if not impossible, to ascertain, and the liquidated damages set forth above are a reasonable approximation of such damages.

**13. REMOVAL/RESTORATION.** All portions of the Communication Facility brought onto the Property by Tenant will be and shall remain Tenant’s personal property and, at Tenant's option, may be removed by Tenant at any time during or after the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of Tenant and may be removed by Tenant at any time during or after the Term. Tenant will repair any damage to the Property resulting from Tenant’s removal activities. Any portions of the Communication Facility that Tenant does not to remove within one hundred twenty (120) days after the later of the end of the Term and cessation of Tenant’s operations at the Premises shall be deemed abandoned and owned by Landlord. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation.

**14. MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto and all areas of the Premises where Tenant does not have exclusive control, in good and tenable condition, subject to reasonable wear and tear and damage from the elements. Landlord will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Tenant as a condition of this Agreement or any required permit.

(b) Tenant will be responsible for paying all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to submeter from Landlord. When submetering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Landlord agrees that it will not include a markup on the utility charges. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within forty-five (45) days of receipt of the usage data and required forms. As noted in Section 4(c) above, any utility fee recovery by Landlord is limited within a twelve (12) month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least twenty-four (24) hours advance notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Tenant’s reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will not be

responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

(c) Landlord hereby grants to any company providing utility or similar services, including electric power and telecommunications, to Tenant a license coupled with an interest over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such companies may from time to time require in order to provide such services to the Premises. Upon Tenant's or the service company's request, Landlord will execute a separate recordable license evidencing this grant, at no cost to Tenant or the service company.

#### **15. DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to provide Access to the Premises as required by Section 12 of this Agreement within twenty-four (24) hours after written notice of such failure; (ii) Landlord's failure to cure an interference problem as required by Section 8 of this Agreement within twenty-four (24) hours after written notice of such failure; or (iii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

#### **16. ASSIGNMENT/SUBLEASE.**

(a) Assignment. Tenant will have the right to assign, sell or transfer its interest under this Agreement, in whole or part, without Landlord's consent, to: (a) Tenant's Affiliate, (b) to any entity with a net worth of at least Twenty Million Dollars (\$20,000,000) or (c) any entity that acquires all or substantially all of the Tenant's assets in the market as defined by the Federal Communications Commission in which the Property is located. Upon notification to Landlord of such assignment, transfer or sale, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement. Tenant may not otherwise assign this Agreement without Landlord's consent, Landlord's consent not to be unreasonably withheld, conditioned or delayed.

(b) Sublease. Tenant shall have the right to sublease the Premises, in whole or in part, with Landlord's consent, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Tenant shall have the right to sublease, license or confer use rights only to any Affiliate of Tenant upon notice, but without the necessity of Landlord's consent.

17. **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 Tenant:                   New Cingular Wireless PCS, LLC  
  Attn: Network Real Estate Administration  
  Re: Cell Site #: CNU2709  
  Search Ring Name: Tulare St. & Fulton Mall  
  Cell Site Name: Tulare St. & Fulton Mall (CA)  
  Fixed Asset #: 10150755  
  575 Morosgo Drive NE  
  Suite 13F, West Tower  
  Atlanta, GA 30324

With a copy to AT&T Legal Department:

  New Cingular Wireless PCS, LLC  
  Attn: AT&T Legal Department  
  Re: Cell Site #: CNU2709  
  Search Ring Name: Tulare St. & Fulton Mall  
  Cell Site Name: Tulare St. & Fulton Mall (CA)  
  Fixed Asset #: 10150755  
  208 S. Akard St  
  Dallas, TX 75202-4206

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

If to Landlord:                City of Fresno  
  Parking Services  
  2600 Fresno Street, Room 4019  
  Fresno, CA 93721

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.

18. **CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

19. **CASUALTY.** Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of the Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant, and Tenant decides not to terminate under this Section, then Landlord will promptly rebuild or restore any portion of the Property interfering with or required for Tenant's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Property and/or the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

20. **WAIVER OF LANDLORD'S LIENS.** Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. **TAXES.**

(a) Landlord shall be responsible for timely payment of all taxes and assessments levied upon the lands, improvements and other property of Landlord, including any such taxes that may be calculated by the taxing authority using any method, including the income method. Tenant shall be responsible for any taxes and assessments attributable to and levied upon Tenant's leasehold improvements on the Premises if and as set forth in this Section 21. Nothing herein shall require Tenant to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature, that is or may be imposed upon Landlord.

(b) In the event Landlord receives a notice of assessment with respect to which taxes or assessments are imposed on Tenant's leasehold improvements on the Premises, Landlord shall provide Tenant with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice of assessment. If Landlord provides a notice of assessment to Tenant within such time period and requests reimbursement from Tenant as set forth below, then Tenant shall reimburse Landlord for the tax or assessments identified on the notice of assessment on Tenant's leasehold improvements, which has been paid by Landlord. If Landlord seeks reimbursement from Tenant, Landlord shall, no later than thirty (30) days after Landlord's payment of the taxes or assessments for the assessed tax year, provide Tenant with written notice including evidence that Landlord has timely paid same, and Landlord shall provide to Tenant any other documentation reasonably requested by Tenant to allow Tenant to evaluate the payment and to reimburse Landlord. Tenant shall reimburse Landlord within thirty (30) days of Tenant's receipt of such written notice.

(c) For any tax amount for which Tenant is responsible under this Agreement, Tenant shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and pay same under protest, or take such other steps as Tenant may deem appropriate so long as Tenant's activities do not cause Landlord to incur liability without confirmation from Tenant that such liability will be subject to Tenant's obligation provide to Landlord pursuant

to Section 9(a) Tenant may institute any legal proceedings on its own behalf. Landlord shall cooperate with respect to the commencement and prosecution of any such proceedings and will reasonably execute any documents required therefor. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant, to the extent the amounts were originally paid by Tenant. In the event Tenant notifies Landlord by the due date for assessment of Tenant's intent to contest the assessment, Landlord shall not pay the assessment pending conclusion of the contest, unless required by applicable law.

(d) Tenant shall have the right but not the obligation to pay any taxes due by Landlord hereunder if Landlord fails to timely do so, in addition to any other rights or remedies of Tenant. In the event that Tenant exercises its rights under this Section 21(d) due to such Landlord default, Tenant shall have the right to deduct such tax amounts paid from any monies due to Landlord from Tenant as provided in Section 15(b), provided that Tenant may exercise such right without having provided to Landlord notice and the opportunity to cure per Section 15(b).

(e) Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17 and, in addition, of a copy of any such notices shall be sent to the following address. Promptly after the Effective Date of this Agreement, Landlord shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant. In the event that Tenant's tax addresses changes by notice to Landlord, Landlord shall be required to provide Tenant's new tax address to the taxing authority or authorities.

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration - Taxes  
Re: Cell Site #: CNU279  
Search Ring Name: Tulare St. & Fulton Mall  
Cell Site Name: Tulare St. & Fulton Mall (CA)  
Fixed Asset #: 10150755  
575 Morosgo Drive NE  
Suite 13F, West Tower  
Atlanta, GA 30324

(f) Notwithstanding anything to the contrary contained in this Section 21, Tenant shall have no obligation to reimburse any tax or assessment for which the Landlord is reimbursed or rebated by a third party.

## 22. SALE OF PROPERTY

(a) Landlord 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 Landlord, at any time during the Term of this 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 Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this subsection (b) to Tenant. Until Tenant receives all such documents, Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this 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 and FTB Form 590
- vi. Completed and Signed AT&T Payment Direction Form
- vii. Full contact information for new Landlord including phone number(s)

(c) Landlord 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 Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord or Landlord's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord 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.

(d) The provisions of this Section shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

**23. RENTAL STREAM OFFER.** If at any time after the date of this Agreement, Landlord receives a bona fide written offer from a third party seeking an assignment or transfer of Rent payments associated with this Agreement ("**Rental Stream Offer**"), Landlord shall immediately furnish Tenant with a copy of the Rental Stream Offer. Tenant shall have the right within twenty (20) days after it receives such copy to match the Rental Stream Offer and agree in writing to match the terms of the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the twenty (20) day period, Landlord may assign the right to receive Rent payments pursuant to the Rental Stream Offer, subject to the terms of this Agreement. If Landlord attempts to assign or transfer Rent payments without complying with this Section, the assignment or transfer shall be void. Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Landlord complies with this Section.

**24. MISCELLANEOUS.**

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum/Short Form Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum or Short Form of Lease substantially in the form attached as **Exhibit 24b**. Either party may record this Memorandum or Short Form Lease at any time during the Term, in its absolute discretion. Thereafter during the Term of this Agreement, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Compliance with Law.** Tenant agrees to comply with all federal, state and local laws, orders, rules and regulations ("**Laws**") applicable to Tenant's use of the Communication Facility on the Property. Landlord agrees to comply with all Laws relating to Landlord's ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and

accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law, and venue shall be proper in the County of Fresno.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in this Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to "Tenant" shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **W-9/FTB 590.** As a condition precedent to payment, Landlord agrees to provide Tenant with a completed IRS Form W-9, a FTB 590, or their equivalents, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant, including, any change in Landlord's name or address.

(l) **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(m) **Attorneys' Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters. This provision will not be construed to entitle any party other than Landlord, Tenant and their respective Affiliates to recover their fees and expenses.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

TENANT:

New Cingular Wireless PCS, LLC  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager

By:   
Print Name: Peter W. Maushardt  
Its: Director  
Date: 5-7-14 Construction & Engineering

LANDLORD:

CITY OF FRESNO,  
a municipal corporation

By:   
BRUCE A. RUDD  
City Manager

Date: 8/5/14, 2014

ATTEST:  
YVONNE SPENCE, CMC  
City Clerk

By:   
Deputy 8/5/2014

APPROVED AS TO FORM:

DOUGLAS T. SLOAN  
City Attorney

By:  5-20-14  
Raj Singh Badhesha, Deputy

[ACKNOWLEDGMENTS APPEAR ON THE FOLLOWING PAGE]

*See Attached*

**TENANT ACKNOWLEDGMENT**

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is  
true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**LANDLORD ACKNOWLEDGMENT**

State of California )  
County of Fresno )

On August 5, 2014 before me, Pamela Parr, Notary  
(insert name and title of the officer)

personally appeared Bruce A. Rudd  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is  
true and correct.

WITNESS my hand and official seal.

Signature Pamela Parr (Seal)



STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

On May 8, 2014 before me, Kathleen Angela Martic-Kongea a Notary Public, personally appeared Peter W. Maushardt who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature Kathleen Angela Martic-Kongea

Printed Name: Kathleen Angela Martic-Kongea

My Commission Expires Dec 26, 2014



CNU2709

FA#10150755

Tulare St & Fulton Mall

**EXHIBIT 1**

**DESCRIPTION OF PREMISES**

Page 1 of 3

to the Option and Lease Agreement dated August 5, 2014, by and between The City of Fresno, a municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property at 801 Van Ness Avenue, Fresno, CA 93721 is legally described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

**Parcel 1:** APN 468-255-11T

Lots 11 to 16, inclusive, and the Southeast 18 feet of Lot 10, in Block 81 of the Town (now City) of Fresno, according to the map thereof recorded in Book 1 Page 2 of Plats, in the Office of the County Recorder of said County.

**Parcel 2:**

An easement for public parking purposes over and above a plane elevation of 309.50 feet above an assumed datum extending across all of the following described property:

That certain portion of the alley lying in Block 81 of the Town of (now city) of Fresno, as said alley is shown on the map thereof recorded June 8, 1876 in Book 1 Page 2 of Plats, in the Office of the County Recorder of said County, and more particularly described as follows:

Beginning at the most Southerly corner of Lot 16 in said Block 81; thence Northwesterly along the Southwesterly lines of Lots 10 to 16, inclusive, in said Block 81, to a point which is 18.00 feet Northwest of the most southerly corner of said Lot 10; thence Southwesterly, along a line which is parallel with and 18.00 feet Northwest of the Southwesterly projection of the Southeasterly line of said Lot 10, to its intersection with the Northeasterly line of Lot 23 in said Block 81; thence Southeasterly, along the Northeasterly lines of Lots 17 to 23, inclusive, in said Block 81, to the most Easterly corner of said Lot 17; thence Northeasterly along the Northeasterly production of the Southeast line of said Lot 17, to the point of beginning.

For the purpose of the foregoing description, "Assumed Datum" shall be ascertained and fixed with relation to the Fresno City T.B.M. (Temporary Bench Mark) #633, and located on the Southwest side of Van Ness Avenue, 57 feet, more or less, Southeast of Venture Avenue, in the City of Fresno, County of Fresno, such bench mark for this purpose to be deemed to have an elevation of 291.458 feet above Assumed Datum.

APN: 468-255-11T

The Property at the Unaddressed Property in Fresno, CA [APN: 468-255-15T] is legally described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel 1: a portion of APN 468-255-15T

Lots 17, 18, 19, 20, 21 and 22 in Block 81 of the Town (now City) of Fresno, according to the Map thereof recorded in Book 1 Page 2 of Plats, in the Office of the County Recorder of said county.

Parcel 2: remainder of APN 468-255-15T

Lots 23 and 24 in Block 81 of the Town (now City) of Fresno, according to the Map thereof recorded in Book 1 Page 2 of Plats, in the Office of the County Recorder of said County.

APN: 468-255-15T

The Premises are described and/or depicted as follows:

- [Lease Exhibit Prepared By Shore 2 Shore Wireless Inc. Dated March 28, 2013 Consisting of Three (3) Pages]

Notes:

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY TENANT.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY'S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE.



(P) ELECTRICAL & TELCO  
CONDUIT ROUTED ALONG  
(E) GUARD RAIL

(P) 7'-5" HIGH  
CHAIN LINK FENCE

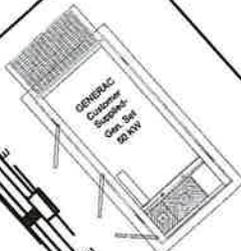
(P) 11'-5" X 12'-0"  
AT&T EQUIPMENT SHELTER

(P) AT&T DC &  
FIBER IN SURFACE  
MOUNTED CONDUITS

16'-9"

29'-2"

(P) AT&T 12'-0"  
X 11'-5"  
FIBREBOND  
EQUIPMENT SHED



(P) 7'-5" HIGH  
CHAIN LINK GATE

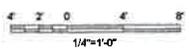
FENCED COMPOUND/  
(P) 29'-2" X 16'-9"  
AT&T 475 SQ. FT.  
LEASE AREA

(P) 7'-5" HIGH  
CHAIN LINK FENCE

(E) PARKING  
STRUCTURE

(E) CHAIN LINK  
FENCE TO REMAIN

(P) 7'-5" HIGH  
CHAIN LINK FENCE



1 ENLARGED SITE PLAN  
1/4"=1'-0"

Record For:  
**CNU2709**  
BASEBALL  
PARKING  
801 VAN NESS AVE.  
FRESNO, CA 93271



AT&T SHE NO: CNU2710  
PROJECT NO: 1131395  
DRAWN BY: BJS  
CHECKED BY: RJO

REV	DATE	DESCRIPTION
1	09/20/14	ISSUE FOR PERMITS

Licensee:  
  
I, E.A. WILSON, DESIGNER FOR THIS PROJECT, MAKE HEREBY AVOID MADE NO STATEMENT OF A LICENSE PROFESSIONAL ENGINEER IS A MEMBER OF THE SOCIETY

**W-T**  
W-T COMMUNICATION  
DESIGN GROUP, LLC  
WIRELESS INFRASTRUCTURE  
2075 PALM AVE SUITE 200  
FOLSOM, CA 95630  
PH: 916-938-4832 FAX: 916-938-4444  
www.wtdesigngroup.com

SHEET TITLE:  
EXHIBIT 1

SHEET NUMBER:  
**E2**



**EXHIBIT 11**

**ENVIRONMENTAL DISCLOSURE**

Landlord represents and warrants that the Property, as of the date of this Agreement, is free of hazardous substances except as follows:

1. NONE.

**EXHIBIT 12**  
**STANDARD ACCESS LETTER**  
**[FOLLOWS ON NEXT PAGE]**

[Landlord Letterhead]

DATE: \_\_\_\_\_

Building Staff / Security Staff  
Landlord, Lessee, Licensee  
Street Address  
City, State, Zip

Re: Authorized Access granted to AT&T

Dear Building and Security Staff,

Please be advised that we have signed a lease with AT&T permitting AT&T to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant AT&T and its representatives, employees, agents and subcontractors ("representatives") 24 hour per day, 7 day per week access to the leased area.

To avoid impact on telephone service during the day, AT&T representatives may be seeking access to the property outside of normal business hours. AT&T representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to leased area. Thank you for your assistance.

\_\_\_\_\_  
Landlord Signature

**EXHIBIT 24b**

**MEMORANDUM OF LEASE**

**[FOLLOWS ON NEXT PAGE]**

**MEMORANDUM OF LEASE**

**Recording Prepared By  
& When Recorded Return to:**

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
575 Morosgo Drive NE  
Suite 13F, West Tower  
Atlanta, GA 30324

**APN: 468-255-15T and  
468-255-11T**

---

(Space Above This Line For Recorder's Use Only)

Market: Northern California  
Cell Site Number: CNU2709  
Search Ring Name: Tulare St. & Fulton Mall  
Cell Site Name: Tulare St. & Fulton Mall (CA)  
Fixed Asset Number: 10150755  
State: California  
**County: Fresno**

**MEMORANDUM  
OF  
LEASE**

This Memorandum of Lease is entered into on this 5 day of August, 2014, by and between The City of Fresno, a municipal corporation, having a mailing address of 2600 Fresno Street, Room 4019, Fresno CA 93721 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Suite 13F, West Tower, Atlanta, GA 30324 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Option and Structure Lease Agreement ("**Agreement**") on the 5 day of August, 2014, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial lease term will be five (5) years commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of its option, with four (4) successive five (5) year options to renew.
3. The portion of the land being leased to Tenant and associated easements are described in **Exhibit A** 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.

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

**"LANDLORD"**

The City of Fresno,  
a municipal corporation

By:   
Print Name: Bruce A Rudd  
Its: City Manager  
Date: 8/5/14

**"TENANT"**

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

By: AT&T Mobility Corporation  
Its: Manager

By:   
Print Name: Peter W. Maushardt  
Its: Director  
Date: 5-7-14 ~~Construction & Engineering~~

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE ]

*See attached*

**TENANT ACKNOWLEDGMENT**

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is  
true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**LANDLORD ACKNOWLEDGMENT**

State of California )  
County of Fresno )

On August 5, 2014 before me, Pamela Parr, Notary,  
(insert name and title of the officer)

personally appeared Bruce Q. Rudd,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is  
true and correct.

WITNESS my hand and official seal.

Signature Pamela Parr (Seal)



STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

On May 8, 2014 before me, Kathleen Angela Martic-Kongea a Notary Public, personally appeared Peter W. Maushardt who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature Kathleen Angela Martic-Kongea

Printed Name: Kathleen Angela Martic-Kongea

My Commission Expires Dec 26, 2014



CNU2709

FA#10150755

Tulare St & Fulton Mall

## EXHIBIT A

### DESCRIPTION OF PREMISES

Page 1 of 3

to the Memorandum of Lease dated August 5, 2014, by and between the City of Fresno, a municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property at 801 Van Ness Avenue, Fresno, CA 93721 is legally described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

**Parcel 1:** APN 468-255-11T

Lots 11 to 16, inclusive, and the Southeast 18 feet of Lot 10, in Block 81 of the Town (now City) of Fresno, according to the map thereof recorded in Book 1 Page 2 of Plats, in the Office of the County Recorder of said County.

**Parcel 2:**

An easement for public parking purposes over and above a plane elevation of 309.50 feet above an assumed datum extending across all of the following described property:

That certain portion of the alley lying in Block 81 of the Town of (now city) of Fresno, as said alley is shown on the map thereof recorded June 8, 1876 in Book 1 Page 2 of Plats, in the Office of the County Recorder of said County, and more particularly described as follows:

Beginning at the most Southerly corner of Lot 16 in said Block 81; thence Northwesterly along the Southwesterly lines of Lots 10 to 16, inclusive, in said Block 81, to a point which is 18.00 feet Northwest of the most southerly corner of said Lot 10; thence Southwesterly, along a line which is parallel with and 18.00 feet Northwest of the Southwesterly projection of the Southeasterly line of said Lot 10, to its intersection with the Northeasterly line of Lot 23 in said Block 81; thence Southeasterly, along the Northeasterly lines of Lots 17 to 23, inclusive, in said Block 81, to the most Easterly corner of said Lot 17; thence Northeasterly along the Northeasterly production of the Southeast line of said Lot 17, to the point of beginning.

For the purpose of the foregoing description, "Assumed Datum" shall be ascertained and fixed with relation to the Fresno City T.B.M. (Temporary Bench Mark) #633, and located on the Southwest side of Van Ness Avenue, 57 feet, more or less, Southeast of Venture Avenue, in the City of Fresno, County of Fresno, such bench mark for this purpose to be deemed to have an elevation of 291.458 feet above Assumed Datum.

APN: 468-255-11T

The Property at the Unaddressed Property in Fresno, CA [APN: 468-255-15T] is legally described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel 1: a portion of APN 468-255-15T

Lots 17, 18, 19, 20, 21 and 22 in Block 81 of the Town (now City) of Fresno, according to the Map thereof recorded in Book 1 Page 2 of Plats, in the Office of the County Recorder of said county.

Parcel 2: remainder of APN 468-255-15T

Lots 23 and 24 in Block 81 of the Town (now City) of Fresno, according to the Map thereof recorded in Book 1 Page 2 of Plats, in the Office of the County Recorder of said County.

APN: 468-255-15T

The Premises are described and/or depicted as follows:

[One (1) Page Depiction of the Premises Suitable for Recording in Fresno County Appears On Following Page]

(P) ELECTRICAL & TELCO  
CONDUIT ROUTED ALONG  
(E) GUARD RAIL

(P) 7'-5" HIGH  
CHAIN LINK FENCE

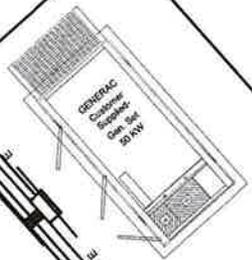
(P) 11'-5" X 12'-0"  
AT&T EQUIPMENT SHELTER

16'-9"

(P) AT&T DC &  
FIBER IN SURFACE  
MOUNTED CONDUITS

29'-2"

(P) AT&T 12'-0"  
X 11'-5"  
FIBREBOND  
EQUIPMENT SHED



(P) 7'-5" HIGH  
CHAIN LINK GATE

FENCED COMPOUND/  
(P) 29'-2" X 16'-9"  
AT&T 475 SQ. FT.  
LEASE AREA

(P) 7'-5" HIGH  
CHAIN LINK FENCE

(E) PARKING  
STRUCTURE

(E) CHAIN LINK  
FENCE TO REMAIN

(P) 7'-5" HIGH  
CHAIN LINK FENCE



4 2 0 4 8  
1/4"=1'-0"

1 ENLARGED SITE PLAN

Drawn for:  
**CNU2709**  
BASEBALL  
PARKING  
801 VAN NESS AVE  
FRESNO, CA 93271



AT&T SHEET NO: CNU2710  
PROJECT NO: 1131395  
DRAWN BY: SJS  
CHECKED BY: RJC

REV	DATE	DESCRIPTION
1	02/20/14	ISSUE FOR PERMIT

License:  
  
IT IS A VIOLATION OF LAW FOR ANY PERSON TO REPRODUCE OR TRANSMIT ANY INFORMATION CONTAINED HEREIN WITHOUT THE WRITTEN PERMISSION OF THE PROFESSIONAL ENGINEER OR ARCHITECT.

**WT**  
W-T COMMUNICATION  
DESIGN GROUP, LLC.  
REGISTERED PROFESSIONAL ENGINEER  
2015 PAVILION SQUARE  
SANTA ANA, CALIFORNIA 92705  
PH: (714) 952-8282 FAX: (714) 952-8284  
www.wtgroup.com

SHEET TITLE:  
EXHIBIT 1

SHEET NUMBER:  
**E2**

**W-9 FORM**

[IRS FORM W-9 (revised August, 2013) FOLLOWS ON NEXT PAGE]

## Request for Taxpayer Identification Number and Certification

Give Form to the  
 requester. Do not  
 send to the IRS.

Print or type  
 See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>City of Fresno</b>	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions):  Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
<b>Governmental Municipality</b>	
Address (number, street, and apt. or suite no.) <b>2600 Fresno St</b>	Requester's name and address (optional)
City, state, and ZIP code <b>Fresno, CA 93721</b>	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>									
<b>Employer identification number</b>									
9	4	-	6	0	0	0	3	3	8

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶ <i>Juanice Dunbar</i>	Date ▶ <i>5-9-14</i>
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### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** The IRS has created a page on [www.irs.gov/w9](http://www.irs.gov/w9) for information about Form W-9, at [www.irs.gov/w9](http://www.irs.gov/w9). Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

**FTB FORM 590**

[CA FTB FORM 590 APPEARS ON FOLLOWING PAGE]

# 2014 Withholding Exemption Certificate

590

The payee completes this form and submits it to the withholding agent.

Withholding Agent (Type or print)

Name

### Payee

Name

CITY OF FRESNO

SSN or ITIN  FEIN  CA Corp no.  CA SOS file no.  
94-6000338

Address (apt, suite, room, PO Box, or PMB no.)

2600 FRESNO ST

City (if you have a foreign address, see instructions)

FRESNO

State ZIP Code  
CA 93721

### Exemption Reason

Check only one reason box below that applies to the payee.

By checking the appropriate box below, the Payee certifies the reason for the exemption from the California income tax withholding requirements on payment(s) made to the entity or individual.

**Individuals — Certification of Residency:**

I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.

**Corporations:**

The corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State (SOS) to do business in California. The corporation will file a California tax return. If this corporation ceases to have a permanent place of business in California or ceases to do any of the above, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.

**Partnerships or limited liability companies (LLCs):**

The partnership or LLC has a permanent place of business in California at the address shown above or is registered with the California SOS, and is subject to the laws of California. The partnership or LLC will file a California tax return. If the partnership or LLC ceases to do any of the above, I will promptly inform the withholding agent. For withholding purposes, a limited liability partnership (LLP) is treated like any other partnership.

**Tax-Exempt Entities:**

The entity is exempt from tax under California Revenue and Taxation Code (R&TC) Section 23701 \_\_\_\_\_ (insert letter) or Internal Revenue Code Section 501(c) \_\_\_\_\_ (insert number). If this entity ceases to be exempt from tax, I will promptly notify the withholding agent. Individuals cannot be tax-exempt entities.

**Insurance Companies, Individual Retirement Arrangements (IRAs), or Qualified Pension/Profit Sharing Plans:**

The entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.

**California Trusts:**

At least one trustee and one noncontingent beneficiary of the above-named trust is a California resident. The trust will file a California fiduciary tax return. If the trustee or noncontingent beneficiary becomes a nonresident at any time, I will promptly notify the withholding agent.

**Estates — Certification of Residency of Deceased Person:**

I am the executor of the above-named person's estate or trust. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return.

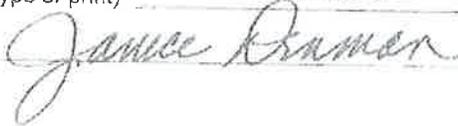
**Nonmilitary Spouse of a Military Servicemember:**

I am a nonmilitary spouse of a military servicemember and I meet the Military Spouse Residency Relief Act (MSRRA) requirements. See instructions for General Information E, MSRRA.

**CERTIFICATE OF PAYEE:** Payee must complete and sign below.

Under penalties of perjury, I hereby certify that the information provided in this document is, to the best of my knowledge, true and correct. If conditions change, I will promptly notify the withholding agent.

Payee's name and title (type or print) Janice Denman, Accountant Telephone ( 559 ) 621-7040

Payee's signature ▶  Date 5-9-14