

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COMMUNICATIONS SITE LEASE

36597

THIS COMMUNICATIONS SITE LEASE ("Lease") is made and entered into as of June 1, 2023 (the "Effective Date"), by and between the CITY OF LONG BEACH, a municipal corporation ("City"), pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on December 13, 2022, and New Cingular Wireless PCS, LLC, a Delaware limited liability company that is a wholly-owned, indirect subsidiary of AT&T, Inc., as successor by assignment by the Los Angeles Regional Interoperable Communications System (LA-RICS), with its principal offices at 1025 Lenox Park Blvd. NE 3<sup>rd</sup> Floor, Atlanta, Georgia 30319 ("Lessee").

1. RECITALS. This Lease is made with reference to the following facts and objectives:

A. The real property described in Exhibit A (the "Property") attached hereto and incorporated herein by this reference is owned by the City.

B. Lessee's proposal for the construction and operation of a communications facility and related equipment ("Facility") was approved by City, and City is willing to permit Lessee to construct and operate the Facility on the terms, covenants and conditions set forth in this Lease.

C. City and Lessee (as successor by assignment to the Los Angeles Regional Interoperable Communications Authority) are currently parties to (i) that certain LTE Site Access Agreement (No. 33910) dated as of July 16, 2015 and (ii) that certain LTE Site Access Agreement (No. 33911) dated as of July 16, 2015 (collectively, the "Previous Agreements"), respecting certain premises more particularly described in the Previous Agreements.

2. PROPERTY, ACCESS AND PREVIOUS AGREEMENTS.

A. City leases to Lessee and Lessee accepts a lease of the premises consisting of approximately three hundred and ninety-two (392) combined square feet as shown on Exhibit B (the "Premises"). The Premises is

1 situated within the Property owned by City, which is located at 400 West  
2 Broadway, Long Beach, California, and commonly known as Long Beach Police  
3 Department Headquarters.

4 B. During the term of this Lease, City also grants to Lessee a  
5 right of ingress and egress, to the extent reasonably practicable seven (7) days  
6 per week and twenty-four (24) hours per day, over those portions of the Property  
7 necessary to access the Premises.

8 C. This Agreement shall supersede and replace the Previous  
9 Agreements in their entirety, and upon the effectiveness of this Agreement, the  
10 Previous Agreements shall have no further force or effect, except for such  
11 provisions that expressly survive termination.

12 3. TERM.

13 A. This Lease shall commence on the Effective Date and shall  
14 terminate on the fifth (5<sup>th</sup>) anniversary thereof (the "Initial Term"). Lessee may  
15 extend the Initial Term of this Lease for four (4) additional period of five (5) years  
16 each (each, a "Renewal Term"), by giving City written notice of its intent to extend  
17 the term at least six (6) months prior to the end of the Initial Term or then-current  
18 Renewal Term, as applicable, upon which an amendment to this Lease shall be  
19 executed by City and Lessee to memorialize the Renewal Term. Notwithstanding  
20 the foregoing, either party may terminate this Lease at any time without any  
21 penalty or further liability as follows:

22 i. upon a default of any covenant or term hereof by the  
23 other party which default is not cured within sixty (60) days of receipt of  
24 written notice of default (without, however, limiting any other rights available  
25 to the parties in law or equity); provided, that if the defaulting party  
26 commences efforts to cure the default within such period and diligently  
27 pursues such cure to completion within one hundred eighty (180) days, the  
28 non-defaulting party shall no longer be entitled to declare a default;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ii. upon thirty (30) days' written notice by Lessee to City if Lessee is unable to obtain, maintain, renew or reinstate any agreement, permit or other Governmental Approvals (defined below) necessary to the construction and operation of the Facility or to Lessee's permitted use; or

iii. upon thirty (30) days' written notice from Lessee to City if the Premises is or becomes unsuitable, in Lessee's reasonable judgment, for use as a wireless communications facility by Lessee or by Lessee's licensee(s) or sublessee(s).

B. In the event Lessee terminates this Lease other than as a result of a default by City, then Lessee shall pay a termination fee ("Termination Fee") equal to three (3) months of the then current Rental (defined below) payment, subject to the provisions of Section 19.

4. USE OF PREMISES.

A. Lessee's right to use the Premises is contingent upon its obtaining and maintaining all certificates, permits, zoning and other approvals that may be required by any federal, state, or local authority (collectively "Governmental Approvals").

B. Lessee is authorized to use the Premises for the construction and operation of the Facility that provides antenna locations for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of equipment, fixtures, cables, and accessories which may include support structures, associated antennas, shelters, cabinets and fencing, related to such use and required for the secure use of the Premises. The Premises shall not be used for any other purpose without the prior written consent of the City Manager of the City of Long Beach ("City Manager").

i. Lessee shall not do, bring or keep anything in or about the Premises that will cause a cancellation of or increase the rate of any

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

insurance covering the Premises.

ii. Lessee shall not use the Premises in any manner that will constitute waste or nuisance.

iii. The limitation on use set forth in subsections 4.B.i. and 4.A.ii. shall not prevent Lessee from bringing, keeping or using, on or about the Premises such materials, supplies, equipment and machinery as are necessary or customary in the operation of the permitted use; provided however, Lessee, in handling hazardous substances or wastes at the Property, shall fully comply with all laws, rules, regulations and orders of governmental agencies having jurisdiction.

C. Prior to subleasing the Premises, Lessee or its sublessee shall conduct a radio frequency interference ("RFI") study. Such a study shall show that the intended sublessee use will not cause harmful interference with any then-existing communications facilities. A copy of the study shall be submitted to: City of Long Beach, 411 W. Ocean Blvd., 10th Floor, Long Beach, CA 90802, Attn: City Manager. If the study finds that there is a potential for interference that cannot be reasonably remedied, City may require that Lessee terminate the sublease.

D. At all times in its use and occupancy of the Premises and in the conduct of its operations thereon, Lessee, at its cost, shall comply with all applicable federal, state, regional and local laws, ordinances and regulations including, but not limited to the City Charter, the Long Beach Municipal Code, Tariff No. 4 and regulations of the Federal Communications Commission ("FCC"). Lessee shall obtain all permits required for any construction to the Facility, any improvements on the Premises and for the conduct of its operations thereon. Lessee shall comply with applicable provisions of the Americans with Disabilities Act (42 U.S.C.A. § 12101, et seq.) ("Act") and regulations promulgated pursuant thereto in Lessee's use of the Premises and operations conducted thereon.

1           Additionally, as between Lessee and City, Lessee shall be solely responsible for  
2           assuring that the Premises are in compliance with applicable provisions of said  
3           Act and related regulations and shall hold City harmless from any and all claims  
4           of failure of the Premises to comply with the Act and/or related regulations.

5                     E.     City shall not be liable for interruptions of service caused by  
6           strikes, lockouts, facility closures, losses of accessibility, telephone and power  
7           failures, governmental acts, and any other condition beyond the control of City.

8                     5.     RENT.

9                     A.     Lessee shall pay to City, as rental for the use of the  
10          Premises, without deduction, setoff, prior notice or demand, an initial annual  
11          rental payment of Forty Five Thousand Dollars (\$45,000) ("Rent") beginning on  
12          the Effective Date and continuing annually thereafter.

13                    B.     Rent shall be adjusted as of the first (1st) day of the second  
14          Lease Year and each Lease Year thereafter during the Initial Term and Renewal  
15          Term(s) (if applicable) by increasing the then-current rent by five percent (5%).  
16          The phrase "Lease Year" shall mean that twelve (12) consecutive calendar month  
17          period commencing on the Effective Date and each anniversary thereafter.

18                    C.     All delinquent installments of rental and other payments due  
19          the City shall bear interest at the maximum rate allowed by law. Rental payments  
20          are delinquent if remaining unpaid on the fifth (5th) day after such payments are  
21          due.

22                    D.     In addition to the Rent, Lessee shall pay to City on a monthly  
23          basis forty percent (40%) of any rents (the "Monthly Collocation Fee") actually  
24          received by Lessee for each sublease, license or other collocation agreement  
25          (each of the foregoing, a "Collocation Agreement") for the use of any portion of  
26          the Premises entered into by and between Lessee and a third-party (any such  
27          third party, a "Collocator"). Notwithstanding the foregoing, City shall not be  
28          entitled to receive any portion of any sums paid by a Collocator to (i) reimburse

1 Lessee for repairs to the Property or structural enhancements to the Facility which  
2 have been made by Lessee for the benefit of the proposed Collocator, or (ii)  
3 reimburse Lessee in whole or in part for costs associated with the development,  
4 operation or maintenance of the Property or the Facility. In the event that any  
5 sums collected by Lessee pursuant to 5(D)(i) or 5(D)(ii) above are in lieu of rent  
6 payment to be made to Lessee, then the Monthly Collocation Fee shall apply to  
7 such payments and be due to City.

8 E. The initial payment of the Monthly Collocation Fee shall be  
9 due within thirty (30) days of receipt by Lessee of the first collocation payment  
10 paid by the Collocator. In the event a Collocation Agreement expires or  
11 terminates, Lessee's obligation to pay the Monthly Collocation Fee for such  
12 Collocation Agreement shall automatically terminate upon the date of such  
13 expiration or termination.

14 F. Lessee shall provide City (upon written request of City which  
15 shall not exceed once annually except if City has a reasonable belief that any  
16 payments owed pursuant to this subsection are incorrect, at which time City shall  
17 not be limited to once-per-year requests) with a summary of the financial records  
18 of Lessee relating solely to the rent, license fees or other recurring payments  
19 received by Lessee from any Collocator. Lessee shall retain all such financial  
20 records and related documents for a period of at least three (3) years and shall  
21 make them reasonably available to City upon advance written request.

22 G. City and Lessee acknowledge that Lessee may sublease the  
23 management of its Facility to a third party (its "Agent"), in which case Agent shall  
24 be bound by all terms and conditions of this Lease. In addition, Agent shall  
25 execute any and all documents between City and Agent to formalize the receipt  
26 of Rent and/or Monthly Collocation Fees by City from Agent.

27 6. CONSTRUCTION OF IMPROVEMENTS AND ALTERATIONS.

28 A. Lessee shall not construct or make any improvements or

1 alterations to the Premises without City's prior consent, which shall not be  
2 unreasonably withheld, conditioned or delayed pursuant to the City's Ordinance  
3 relating to wireless communications facilities. Any improvement or alteration to  
4 the Premises shall be constructed or erected and installed by Lessee in  
5 accordance with plans and specifications approved in writing by the Director of  
6 Development Services, Planning and Building Bureau or his or her designee and  
7 shall be subject to such conditions and limitations as may be set forth in the permit  
8 issued by the City authorizing the work contemplated by this Lease. Within thirty  
9 days (30) of the Effective Date, Lessee shall submit a list of operating frequencies  
10 to the following address: City of Long Beach, 411 W. Ocean Blvd., 10th Floor,  
11 Long Beach, CA 90802, Attn: City Manager .

12 B. On or before the date of commencement of any new  
13 construction to the Facility or any other structure or material improvement on the  
14 Premises excluding "like kind" repairs or improvements, Lessee shall file or cause  
15 to be filed with City a performance bond and a labor and material payment bond  
16 executed by Lessee or Lessee's contractor, as principal, and by a surety  
17 authorized to do business in the State of California, as surety, conditioned upon  
18 the contractor's performance of its construction contract with Lessee in a form  
19 and with a surety reasonably acceptable to City. The performance bond shall  
20 name or be endorsed to name City as a joint obligee with Lessee and/or Lessee's  
21 lender. City shall either approve or disapprove of any such proposed bond within  
22 ten (10) business days of City's receipt thereof. The performance bond shall be  
23 in the amount and provide a penalty of one hundred percent (100%) of the cost  
24 of the improvements to be constructed by Lessee and shall remain in effect until  
25 the date of completion of construction of the Facility. The payment bond shall be  
26 in the amount and provide a penalty of one hundred percent (100%) of the  
27 valuation of the improvements to be constructed by Lessee and shall remain in  
28 effect until the expiration of the period for filing a claim of lien or, if a claim of lien

1 is filed, the expiration of the period for filing an action to foreclose such lien, or  
2 until the Premises are freed from the effect of such claim of lien and any action  
3 brought to foreclose such lien or the lien is otherwise discharged.

4 C. Subject to Section 6.A, Lessee shall have the right to do all  
5 work necessary to prepare, add, maintain and alter the Premises for construction  
6 and further development of the Facility and to install utility lines and transmission  
7 lines connecting antennas, transmitters, receivers and other equipment.  
8 Licensed and bondable contractors shall perform all of Lessee's construction and  
9 installation work at Lessee's sole cost and expense in a good and workmanlike  
10 manner.

11 D. City shall make every reasonable attempt to provide access  
12 to the Premises twenty-four (24) hours a day, seven (7) days a week, to Lessee's  
13 employees, agents, subtenants, contractors and subcontractors at no charge to  
14 Lessee and shall provide Lessee with the telephone number of maintenance staff  
15 assigned by the Manager of the Maintenance Operations Bureau to respond to  
16 emergency situations at the Premises. City hereby grants to Lessee such rights  
17 of ingress and egress over City's Property as may be necessary and consistent  
18 with the authorized use of the Premises.

19 E. Lessee shall have the right to install utilities, at Lessee's  
20 expense, and to improve the present utilities on or near the Premises (including  
21 emergency or back-up batteries or transportable generator power). Subject to  
22 City's reasonable approval of the location of said utilities, not to be unreasonably  
23 withheld, conditioned or delayed, Lessee shall have the right to place utilities on  
24 (or to bring utilities across) the Property in order to service the Premises and the  
25 Facility.

26 7. RADIO FREQUENCY EMISSION SAFETY. Lessee shall at all times  
27 comply with applicable regulations adopted by the FCC regarding limits to human exposure  
28 to electromagnetic emissions. Lessee shall pay for a Prediction RFE Study, carried out by



1 an independent and qualified professional. The study shall analyze the “worst” case RF  
2 fields that could exist at the Premises taking into account all existing and/or proposed  
3 transmitters operating at a one hundred percent (100%) duty-cycle. A copy of the study  
4 shall be submitted to: City of Long Beach, 411 W. Ocean Blvd., 10th Floor, Long Beach,  
5 CA 90802, Attn: City Manager, within sixty (60) days of the Effective Date.

6 8. INTERFERENCE.

7 A. Lessee shall operate the Facility in such a manner that will  
8 not cause harmful interference with the authorized communications  
9 configurations equipment and uses, which exist on the Property as of the Effective  
10 Date Lessee’s operations on the Premises shall not cause harmful interference  
11 with any of the City’s communications operations on a citywide basis, either  
12 current or future. All operations by Lessee shall be lawful and in compliance with  
13 all applicable FCC requirements.

14 B. Under no circumstances shall the operations or services at  
15 the Facility interfere in any way or manner with the use or operation of public  
16 safety radio communications. If, in the reasonable discretion of the City, the  
17 Lessee is deemed to interfere with the use or operation of the City’s public safety  
18 radio communications, City, without liability to Lessee, shall have the right to  
19 require Lessee to temporarily cease and shut down the Lessee’s facilities and  
20 operations until such interference is eliminated. In the event the Facility is causing  
21 interference to public safety radio communications during an emergency (which  
22 shall be defined as a situation creating a danger of injury or death to persons or  
23 damage to property), Lessee shall respond to City’s notice of such interference  
24 within twelve (12) hours after receipt of same. In connection with the foregoing,  
25 City shall contact Lessee’s Network Operations Center at (800) 638-2822 or  
26 Lessee’s local market property management department at nocnoc@att.com to  
27 notify Lessee of such interference.

28 C. The City makes no representation or warranty as to the area

1 of communications coverage to and from the Facility. Lessee acknowledges and  
2 agrees that Lessee's signal is subject to degradation of transmission and  
3 performance from natural and man-made phenomena, including but not limited  
4 to, solar flares, so-called "slip" interference, power lines and interference from  
5 users of the same and other frequencies. City shall not be responsible for  
6 interference caused by any such sources or any other source beyond the control  
7 of the City.

8 D. An RFI study shall be conducted whenever a new emitter is  
9 added to the Facility, whenever radiated power is increased from an emitter,  
10 whenever an emitter is relocated or modified, or when an emitter's radiation  
11 pattern changes. The study shall identify any potentially affected user and shall  
12 be submitted as part of the formal permitting process through the Department of  
13 Development Services with a copy to City of Long Beach, 411 W. Ocean Blvd.,  
14 10th Floor, Long Beach, CA 90802, Attn: City Manager, immediately upon  
15 completion and prior to anticipated activation of change. Lessee shall bear the  
16 cost of such a study.

17 E. Lessee acknowledges that under FCC and Federal Aviation  
18 Administration ("FAA") rules, regulations and orders, it has separate  
19 responsibilities with respect to maintenance, identification, marking and lighting  
20 of the Facility, which responsibilities must be fulfilled by it and cannot be  
21 delegated or assigned to any other party. Lessee will maintain its Facility at the  
22 Premises in full compliance with all applicable FCC and FAA AIR safety  
23 identification, marking and lighting requirements.

24 9. MAINTENANCE AND REPAIR.

25 A. Lessee, at its cost shall keep and maintain the Premises,  
26 including without limitation the Facility and all of Lessee's buildings, structures,  
27 and other improvements on the Premises in reasonably good repair and condition  
28 and shall perform all necessary maintenance including landscaping installed by

1 Lessee. Lessee shall at its sole cost and expense, keep and maintain all natural  
2 and artificial drainage channels now located or hereafter constructed on the  
3 Premises free and unobstructed. Should Lessee fail to do so, City may, after ten  
4 (10) days' notice to Lessee, make the necessary correction and the reasonable  
5 cost thereof shall be paid by Lessee within thirty (30) days after receipt of City's  
6 statement of such costs and reasonable supporting documentation.

7 B. Should Lessee fail to make any repairs or perform required  
8 maintenance of the Facility within thirty (30) days after receipt or notice from City  
9 to do so, City may, but shall not be obligated to, make such repairs or perform  
10 such maintenance. Lessee agrees to reimburse City for the reasonable cost  
11 thereof within thirty (30) days after receipt of City's invoice therefore and  
12 reasonable supporting documentation. City's cost shall include, but not be limited  
13 to, the reasonable cost of maintenance or repair or replacement of property  
14 neglected, damaged or destroyed for which Lessee is responsible, including  
15 direct and allocated costs for labor, materials, supervision, supplies, tools, taxes  
16 and transportation. In the event Lessee commences to diligently make such  
17 repairs or shall begin to perform the required maintenance within the initial thirty  
18 (30) day period, City shall refrain from making such repairs or performing required  
19 maintenance. The making of any repair or the performance of maintenance by  
20 City, which is the responsibility of Lessee, shall in no event be construed as a  
21 waiver of Lessee's duty or obligation to make future repairs or perform required  
22 maintenance as provided in this Lease.

23 C. Lessee, at its cost, further agrees to keep and maintain all of  
24 the Premises in a safe, clean, and sanitary condition under all applicable federal,  
25 state, local and other laws, rules, regulations and orders. No offensive refuse,  
26 matter, nor any substance which constitutes any unnecessary, unreasonable or  
27 unlawful fire hazard, nor material detrimental to the public health shall be  
28 permitted to be in or remain on the Premises and Lessee shall prevent such

1 material or matter from accumulating upon the Premises.

2 D. All fire protection sprinkler systems, standpipe systems, fire  
3 alarm systems, portable fire extinguishers and other fire-protective or  
4 extinguishing systems or appliances which may be installed on the Premises shall  
5 be maintained by Lessee, at its cost in an operative condition at all times. All  
6 repairs and servicing shall be made in accordance with the applicable provisions  
7 of the Long Beach Municipal Code, and all revisions thereto.

8 E. Lessee shall promptly notify the City Manager in the event of  
9 any release of contamination or hazardous materials onto the Premises. Lessee,  
10 at its cost, shall promptly remove and/or treat and dispose of all contamination or  
11 hazardous materials caused by Lessee or for which Lessee is responsible, in  
12 accordance with regulations and orders of governmental agencies having  
13 jurisdiction and restore the Premises to the condition they were in prior to the  
14 release of the contamination or hazardous materials to the extent practicable.  
15 Lessee shall furnish the City Manager with copies of all waste manifests.  
16 Notwithstanding the foregoing, Lessee shall not be responsible for the cost of  
17 such remediation if Lessee can establish to the reasonable satisfaction of City  
18 that remediation either (i) is required as a result of contamination or hazardous  
19 materials existing on, in or under the Premises prior to the Effective Date, or (ii)  
20 is not as a result of the use of contaminated or hazardous materials on the  
21 Premises by Lessee, its agents, consultants, contractors or employees.

22 10. UTILITIES. Lessee, at its cost, shall make arrangements for and pay  
23 for all utility installations and services furnished to or used by it, including without limitation  
24 gas, water, and trash collections and for all connection charges. City agrees to reasonably  
25 cooperate with Lessee in obtaining such utility services.

26 11. TAXES. Except where contested in good faith in a court of appropriate  
27 jurisdiction, Lessee shall pay, prior to delinquency, all lawful taxes, assessments and other  
28 governmental or district charges that may be levied upon its property and improvements of

1 any kind located on the Premises. Lessee recognizes and understands that this Lease  
2 may create a possessory interest subject to property taxation and that Lessee may be  
3 subject to the payment of property taxes and assessments levied on such interest.  
4 Payment of any such possessory interest tax or assessment shall not reduce any  
5 compensation due City hereunder.

6 12. MECHANICS' LIENS. Lessee shall pay all costs for construction done  
7 by it or caused by it to be done on the Premises. Lessee shall keep the Premises free and  
8 clear of all mechanics' liens resulting from construction done by or for Lessee. Lessee shall  
9 have the right to contest the correctness or the validity of any such lien if, immediately on  
10 demand by City, Lessee procures and records a lien release bond issued by a corporation  
11 authorized to issue surety bonds in California in an amount equal to one and one-half (1½)  
12 times the amount of the claim of lien. The bond shall meet the requirements of Civil Code  
13 Section 3143 and shall provide for the payment of any sum that the claimant may recover  
14 on the claim (together with the costs of suit, if claimant recovers in the action). Lessee  
15 agrees that it will at all times save City free and harmless and indemnify City against all  
16 claims for labor or materials in connection with the construction, erection or installation of  
17 Lessee's improvements made upon the Premises, or from additions or alterations made  
18 thereto, or the repair of the same, by or for Lessee, and the costs of defending against any  
19 such claim, including reasonable attorneys' fees.

20 13. INDEMNIFICATION.

21 A. Lessee shall defend, indemnify, hold, protect and save  
22 harmless the City of Long Beach, its officials, commissioners, employees, and  
23 agents ("indemnified parties") from and against any and all actions, suits,  
24 proceedings, claims, demands, damages, losses, liens, costs, expenses or  
25 liabilities of any kind or nature whatsoever ("claims"), which may be brought,  
26 made, filed against, imposed upon or sustained by the indemnified parties, or any  
27 of them, alleging injury to or death of persons or damage to property, including  
28 property owned by or under the care and custody of Lessee and that such injury,

1 death or damage arises from or is attributable to or caused, directly or indirectly:

2 i. By the use of the Premises or any equipment or  
3 materials located thereon, or from operations conducted thereon by Lessee,  
4 its agents, employees or contractors, or by any person or persons acting on  
5 behalf of Lessee and with Lessee's knowledge and consent, express or  
6 implied of City;

7 ii. By the condition or state of repair and maintenance of  
8 the Premises;

9 iii. By the construction, improvement or repair of the  
10 improvements and facilities on the Premises by Lessee, its officers,  
11 employees, contractors, or agents or by any person or persons acting on  
12 behalf of Lessee and with Lessee's knowledge and consent, express or  
13 implied; or

14 iv. By Lessee's failure or refusal to comply with the  
15 provisions of Section 6300, et seq. of the California Labor Code or any  
16 federal, state or local regulations or laws pertaining to the safety of the  
17 Premises or of equipment located upon the Premises.

18 City shall notify Lessee of any claim, tender its defense to Lessee, and shall  
19 assist Lessee as may reasonably be requested in the defense thereof. Upon such  
20 notification and tender, Lessee shall have independent duties to defend such claim, and to  
21 indemnify the indemnified parties except to the extent that such injury, death or damage is  
22 determined by a Court of competent jurisdiction to have been caused by the active  
23 negligence or willful misconduct of the indemnified parties. Payment of a claim by an  
24 indemnified party shall not be a condition precedent to recovery under this indemnity.

25 14. INSURANCE. Nothing in this Section shall prevent Lessee from  
26 requiring its sublessees, or any of them, or any other third party, to provide the required  
27 EMF liability insurance in place of Lessee's provision of such insurance, nor prevent  
28 Lessee, its sublessees, or any of them, in place of Lessee, from taking out EMF liability

1 insurance under a blanket insurance policy or policies provided that the protection afforded  
2 Lessee and City under any policy of blanket insurance shall be no less than that which  
3 would have been afforded under a separate policy or policies relating only to such  
4 coverage.

5           A.     As a condition precedent to the effectiveness of this Lease,  
6           and without limiting Lessee's obligations of indemnity, Lessee at no cost to City  
7           shall procure and maintain in effect during the term of this Lease the following  
8           levels of insurance:

9                   i.     Commercial general liability insurance with coverage at  
10                  least as broad as Insurance Services Office Commercial General Liability  
11                  Form CG0001 (or its substantial equivalent), with limits of Five Million Dollars  
12                  (\$5,000,000.00) per occurrence and Five Million Dollars (\$5,000,000.00) in  
13                  the aggregate. This insurance shall not exclude or limit coverage for electric  
14                  and magnetic fields ("EMF") liability, explosion, collapse and underground  
15                  ("XCU") hazards, and shall not exclude or limit coverage for contractual  
16                  liability, independent contractors, or cross-liability protection, subject to  
17                  standard policy provisions and exclusions.

18                   ii.    Automobile liability insurance with coverage at least as  
19                  broad as Insurance Services Office Form CA 00 01 (or its substantial  
20                  equivalent) covering automobile liability code 1 (any auto), with a limit of One  
21                  Million Dollars (\$1,000,000.00) each accident.

22                   iii.   Workers' compensation insurance, as required by the  
23                  State of California and employer's liability insurance, with a limit of One  
24                  Million Dollars (\$1,000,000.00) per accident for bodily injury and disease –  
25                  each employee, disease policy limit.

26           B.     Each policy shall be from a company or companies with a  
27           current A.M. Best's rating of no less than A -VII and eligible to do business in the  
28           State of California, or otherwise allowed to place insurance through surplus line

1 brokers under applicable provisions of the California Insurance code or any  
2 federal law.

3 C. Lessee shall provide at least thirty (30) days written notice of  
4 cancellation of any required coverage that is not replaced to the City Manager by  
5 regular mail.

6 D. The policy or policies required under subsections 15.A.i. and  
7 15.A.ii. above shall also be endorsed to provide substantially as follows:

8 i. That the Indemnified Parties, while acting within the  
9 scope of their authority, shall be additional insureds by endorsement with  
10 regard to liability and defense of suits or claims caused, in whole or in part,  
11 by the operations, products, and activities performed by or on behalf of the  
12 named insured. City's additional insured status shall (i) be limited to bodily  
13 injury, property damage or personal and advertising injury caused, in whole  
14 or in part, by Lessee, its employees, agents or independent contractors; and  
15 (ii) not extend to claims for punitive or exemplary damages arising out of the  
16 acts or omissions of City, its employees, agents or independent contractors  
17 or where such coverage is prohibited by law or to claims arising out of the  
18 gross negligence of City, its employees, agents or independent contractors.

19 ii. That such insurance is primary as relates to Lessee  
20 operations and any other insurance, deductible, retention or self-insurance  
21 maintained by the Indemnified Parties shall not contribute with such primary  
22 insurance.

23 iii. That in the event a claim is made or a suit is filed against  
24 an insured (whether named or additional), including a claim or suit by another  
25 insured (whether named or additional), the policy shall cover the insured  
26 against whom the claim is made or suit is filed in the same manner as if  
27 separate policies had been issued to each insured, except that the limits of  
28 insurance shall not be increased thereby.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

iv. Shall include contractual liability coverage.

v. Any failure by the named insured to comply with reporting provisions of the policy or breaches or violation of warranties shall not affect coverage provided to the indemnified parties, provided that such failure is not due to the acts of the additional insureds.

Acceptable blanket additional insured wording in Lessee's policy may be deemed as an acceptable substitute for an endorsement, at City's discretion.

E. The policy or policies required under subsections 15.A.i and 15.A.iii. above shall also be endorsed to provide waivers of subrogation stating that the insurer and self-insurer waive indemnification from the indemnified parties or any of them. Acceptable blanket waivers of subrogation wording in Lessee's policy may be deemed as an acceptable substitute for an endorsement at City's discretion.

F. Insurance under this Lease may only be provided on a claims-made basis coverage if occurrence basis coverage is not commercially available evidenced by written confirmation of the Lessee's insurance broker or agent and with the approval of the City's risk manager. In addition, if any of the required insurance is provided on a "claims-made" basis, any "prior acts" coverage or "retroactive date" on such insurance and all subsequent insurance shall be as the Effective Date. Upon expiration or termination of coverage of required insurance, Lessee shall procure and submit to city evidence of "tail" coverage or an extended reporting coverage period endorsement or renew for the period of at least three (3) years from termination or expiration of this Lease.

G. Lessee shall deliver certificates and additional insured blanket endorsements ("Evidence of Insurance") to the City Manager With the expiration of any such policy, Evidence of Insurance showing that such insurance coverage has been renewed or extended shall be filed with the City Manager, without a lapse in coverage. Lessee agrees to suspend and cease all operations

1 hereunder during such period of time as the required insurance coverage is not  
2 in effect and Evidence of Insurance has not been submitted to the City.

3 H. Lessee may, in its sole discretion, self-insure any of the  
4 required insurance under the same terms as required by this Lease.

5 15. SIGNS. No signage shall be allowed on the Facility, except as  
6 required for public safety purposes, by the FCC, or by any other governmental agency  
7 having jurisdiction over the Property. Upon the expiration or termination of this Lease,  
8 Lessee, at its cost, shall remove promptly and to the satisfaction of the City Manager any  
9 and all signs and placards placed by it upon the Premises.

10 16. DEFAULT. The occurrence of any of the following shall constitute a  
11 default without any obligation to refund any portion of the Rent, or the Monthly Collocation  
12 Fee:

13 A. Failure by Lessee to pay rent when due, if the failure  
14 continues for thirty (30) days after City has given written notice to Lessee;

15 B. Failure by Lessee to maintain its permits and/or licenses to  
16 provide mobile/wireless telecommunications services and Lessee fails to  
17 reinstate such permits and/or licenses within the periods permitted by the  
18 applicable governmental agency;

19 C. The filing by or against Lessee or a petition to have Lessee  
20 adjudged a bankrupt or a petition for reorganization or arrangement under any  
21 law relating to bankruptcy, unless released within sixty (60) days thereafter;

22 D. The appointment of a trustee or receiver to take possession  
23 of substantially all of Lessee's assets located at the Premises or of Lessee's  
24 interest in this Lease;

25 E. Any attachment where such seizure is not discharged within  
26 thirty (30) days thereafter; or

27 F. The filing of any tax lien against Lessee not discharged  
28 within thirty (30) days thereafter; or

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

G. Failure by Lessee to perform any other provision of this Lease if the failure to perform is not cured within (30) days after notice has been given by City; provided, if the default cannot reasonably be cured within thirty (30) days, Lessee shall not be in default if Lessee commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default.

H. Notices given under this Section 16 shall specify the alleged default and the applicable Lease provisions and shall demand that Lessee perform the provisions of this Lease or pay the rent that is in arrears, as the case may be, within the applicable period of time or that Lessee quit the Premises. No such notice shall be deemed forfeiture or a termination of this Lease unless City so elects in its notice to Lessee.

I. City may terminate this Lease at any time upon sixty (60) days written notice to Lessee, in the event that the signal from the Facility materially interferes, as objectively determined by a qualified independent engineer, with City's normal and customary operations and maintenance of its facilities provided, however, that City has first given Lessee written notice of such interference and Lessee is unable to correct or cease such interference within thirty (30) days after receipt of written notice of such interference.

J. The remedies of City shall be cumulative and in addition to any other remedies available at law or in equity.

K. For the purpose of this Section, each of the covenants, conditions and agreements imposed upon or to be performed by Lessee shall, at the option of the City, be deemed to be either covenants or conditions, regardless of how designated in this Lease.

L. The following will be deemed a default by the City and a breach of this Agreement: (i) failure to provide access to the Premises or to cure an interference problem within forty-eight (48) hours after receipt of written notice

1 of such default; or (ii) City's failure to perform any term, condition or breach of any  
2 warranty or covenant under this Agreement within thirty (30) days after written  
3 notice from Lessee specifying the failure. No such failure, however, will be  
4 deemed to exist if City has commenced to cure the default within such period and  
5 provided such efforts are prosecuted to completion with reasonable diligence.  
6 Delay in curing a default will be excused if due to causes beyond the reasonable  
7 control of the City. If the City remains in default beyond any applicable cure  
8 period, Lessee will have the right to exercise any and all rights available to it  
9 under law and equity, including the right to cure the City's default and to deduct  
10 the costs of such cure from any monies due to the City from the Lessee.

11 17. FORCE MAJEURE.

12 A. Neither party to this Lease shall be deemed to be in default  
13 in the performance of the terms, covenants or conditions of this Lease, if such  
14 party is prevented from performing said terms, covenants or conditions hereunder  
15 by causes beyond its control, including, without limitation, earthquake, flood, or  
16 similar catastrophe, war, insurrection, riot or other civil disturbance, or any other  
17 cause reasonably beyond the control of the defaulting party, but excluding strikes  
18 or other labor disputes, lockouts or work stoppages. In the event of the happening  
19 of any of such contingencies, the party delayed from performance shall  
20 immediately give the other party written notice of such contingency, specifying  
21 the cause for delay or failure. The party so delayed shall use reasonable diligence  
22 to remove the cause of delay, and if and when the occurrence or condition which  
23 delayed or prevented the performance shall cease or be removed, the party  
24 delayed shall notify the other party immediately, and the delayed party shall  
25 recommence its performance of the terms, covenants and conditions of this  
26 Lease.

27 B. If the Premises are not reasonably useable in whole or in part  
28 by reason of any cause contemplated by Section 17.A, for a period of one (1)

1 month or longer, Lessee shall have the option to terminate this Lease in its  
2 entirety by giving City written notice, at which point all obligations of Lessee shall  
3 cease.

4 C. During any period in which the Premises are not reasonably  
5 useable in whole or in part by reason of any cause contemplated by Section 17.A,  
6 Lessee shall not be relieved of its obligation to pay any sum already due to City  
7 at the time of the occurrence.

8 D. Notwithstanding the foregoing, the occurrence of any cause  
9 contemplated by Section 17.A shall not excuse or otherwise delay performance  
10 by Lessee of its obligation to obtain all required permits, licenses, approvals and  
11 consents from governmental agencies having jurisdiction for the operation and  
12 conduct of permitted activities.

13 18. TERMINATION BY ACTION OF OTHER. In the event the United  
14 States of America, the State of California, or any agency or instrumentality of said  
15 governments shall, by condemnation or otherwise, take title, possession or the right to  
16 possession of the Premises, or any part thereof, or deny Lessee the right to use the  
17 Premises as contemplated by this Lease, or if any court shall render a decision which has  
18 become final and which will prevent the performance by City of any of its obligations under  
19 this Lease, and if such taking, denial or decision substantially impairs the utility of the  
20 Premises to Lessee, then Lessee may, at its option, terminate this Lease as of the date of  
21 such taking, denial or decision, and all further obligations of the parties shall end, except  
22 as to:

23 A. Any award to which Lessee may be entitled from the  
24 condemning authority for loss or damage suffered by Lessee, including but not  
25 limited to relocation benefits and Lessee's interest in its building, improvements,  
26 trade, fixtures and removable personal property;

27 B. Obligations of Indemnity which arise under the provisions of  
28 Section 13; or

1 C. Any obligations or liabilities, which shall have accrued prior  
2 to the date of taking.

3 19. TERMINATION BY LESSEE. Lessee shall have the right to terminate  
4 this Lease on the occurrence of one or more of the following events:

5 A. Lessee determines at any time after the Effective Date that  
6 any Governmental Approval or non-governmental license, permit, consent,  
7 approval, easement or restriction waiver that is necessary to enable Lessee to  
8 install and operate the Facility cannot be obtained or renewed at acceptable  
9 expense or in an acceptable time period or has been rejected, canceled, has  
10 expired, or is otherwise withdrawn or terminated by governmental activity;

11 B. Lessee determines at any time after the Effective Date that  
12 the Premises are not appropriate or suitable for its operations for economic,  
13 environmental or technological reasons, including without limitation, any ruling or  
14 directive of the FCC or other governmental or regulatory agency, or problems with  
15 signal strength or interference not encompassed herein;

16 C. Any pre-existing communications facility, or any  
17 communications facilities or other structures of any kind now or hereafter located  
18 on or in the vicinity of the Property, interferes with the Facility and Lessee is  
19 unable to resolve such interference through reasonable feasible means; or

20 D. City commits a default under this Lease and fails to cure such  
21 default within the thirty (30) days of receipt of written notice from Lessee  
22 specifying the default, provided that if the period to diligently cure takes longer  
23 than thirty (30) days and City commences to cure the default within the thirty (30)  
24 day notice period, then City shall have such additional time as shall be reasonably  
25 necessary to diligently effect a complete cure.

26 20. SURRENDER OF POSSESSION.

27 A. Upon the expiration or earlier termination of this Lease  
28 (whether by lapse of time or otherwise), Lessee, at its sole cost, shall restore the

1 Premises to as good a state and condition as the same were upon the date  
2 Lessee originally took possession thereof, reasonable wear and tear and damage  
3 by the elements excepted, and shall thereafter peaceably surrender possession.  
4 In the event this Lease is terminated as a result of a default by City, the Premises  
5 shall be restored by City, at its cost.

6 B. All improvements of any kind constructed, erected or  
7 installed upon the Premises by Lessee ("Improvements") shall be and remain the  
8 property of Lessee during the term of this Lease. Lessee shall remove the  
9 Improvements at its sole cost and expense and shall repair any damage to the  
10 Premises caused by such removal. In the event Lessee fails to remove the  
11 Improvements within ninety (90) days of the expiration or termination of this  
12 Lease, City shall have the right to remove and/or sell and/or destroy the same  
13 (subject to the interest of any person other than Lessee therein) at Lessee's  
14 expense, and Lessee agrees to pay the reasonable cost of any such removal,  
15 sale, or destruction. The obligations contained in this Section shall remain in full  
16 force and effect, notwithstanding the expiration or earlier termination of this  
17 Lease.

18 21. RELOCATION ASSISTANCE. Lessee understands and agrees that  
19 except as set forth herein, Lessee has no right for relocation assistance or payment from  
20 City upon the termination of this Lease or upon the termination of any holdover period.  
21 Lessee acknowledges and agrees that it shall not be entitled to any relocation assistance  
22 or payment pursuant to the provisions of Title 1, Division 7, Chapter 16, of the Government  
23 Code of the State of California (Sections 7260 et seq.) with respect to any relocation of its  
24 business or activities upon the termination of this Lease as a result of the lapse of time or  
25 Lessee's default or upon the termination of any holdover period.

26 22. ASSIGNMENT.

27 A. Lessee shall not assign, sublet or otherwise transfer  
28 (whether voluntary or involuntary) this Lease or any interest therein without the

1 prior written consent of the City Manager, which consent, shall not be  
2 unreasonably withheld, conditioned or delayed. The City Manager has authority  
3 to approve any such request. Any sublease approved by the City shall be subject  
4 to and subordinate to the provisions of this Lease.

5 B. The provisions of Section 22.A. shall not apply to an  
6 assignment or transfer to an affiliate of Lessee or to any entity which acquires all  
7 or substantially all of Lessee's assets in the market defined by the FCC in which  
8 the Property is located by reason of a merger, acquisition or other business  
9 reorganization. For purposes of this Section 22.B., the term "affiliate" shall mean  
10 (i) any company which owns fifty-one percent (51%) or more of the outstanding  
11 capital stock of Lessee, or (ii) any company of which Lessee owns fifty-one  
12 percent (51%) or more of the outstanding capital stock, or (iii) any company of  
13 which fifty-one percent (51%) or more of the outstanding capital stock is owned  
14 by a shareholder or group of shareholders who also own at least fifty-one percent  
15 (51%) or more of the outstanding capital stock of Lessee. No change of stock  
16 ownership, partnership interest or control of Lessee or transfer upon partnership  
17 or corporate dissolution of Lessee shall constitute an assignment hereunder. Any  
18 assignment or transfer pursuant to Section 22.B. shall only require notice from  
19 Lessee to City.

20 23. HOLDING OVER. If Lessee shall hold over after the expiration of this  
21 Lease for any cause, such holding over shall be deemed a tenancy from month to month  
22 only, upon the same terms, conditions and provisions of this Lease, except that monthly  
23 rent shall be one hundred and twenty-five percent (125%) of the monthly rent payable  
24 during the last full calendar month preceding the termination date. Monthly rent for  
25 holdover purposes shall be defined as the Monthly Collocation Fee and the monthly Rent.

26 24. NON-DISTURBANCE AGREEMENT. City agrees that it will from time  
27 to time enter into so-called "non-disturbance" agreements with any permitted subtenant of  
28 Lessee, which requested such an agreement. Such non-disturbance agreement shall



OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

1 provide that in the event of early termination of this Lease as a result of Lessee's default  
2 thereunder, City shall recognize the sublease and not disturb the subtenant's possession  
3 thereunder so long as such subtenant shall not be in default under its sublease, that the  
4 subtenant will attorn to City and that the subtenant will pay rent to City from the date of  
5 such attornment, and that City shall not be responsible to the subtenant under the sublease  
6 except for obligations accruing subsequent to the date of such attornment.

7           25. QUIET POSSESSION. Except as otherwise provided in this Lease,  
8 City covenants and agrees that Lessee, upon paying the rent and other charges herein  
9 provided for and observing and keeping the covenants, conditions, and terms of this Lease,  
10 Lessee shall lawfully and quietly hold, occupy, and enjoy the Premises during the term of  
11 this Lease without any hindrance or molestation by City or any person claiming under City.

12           26. MISCELLANEOUS PROVISIONS. Any notice, demand, request,  
13 consent, approval or communication that either party desires or is required to give to the  
14 other party or to any other person shall be in writing and either served personally or sent  
15 by prepaid, first-class mail, return receipt requested. The addresses to the parties are as  
16 follows:

17 TO CITY:                   City Manager  
18                               10th Floor, City Hall  
19                               411 West Ocean Boulevard  
20                               Long Beach, California 90802

21 TO LESSEE:                New Cingular Wireless PCS, LLC  
22                               Attn: Network Real Estate Administration  
23                               Re: Cell Site # CLL01759  
24                               Cell Site Name: FNA LONG BEACH POLICE DEPARTMENT  
25                               HEADQUARTERS (CA)  
26                               Fixed Asset #: 14590403  
27                               1025 Lenox Park Blvd. NE 3<sup>rd</sup> Floor  
28                               Atlanta, Georgia 30319

WITH COPY TO:            New Cingular Wireless PCS, LLC  
Attn: Legal Department  
Re: Cell Site # CLL01759  
Cell Site Name: FNA LONG BEACH POLICE DEPARTMENT  
HEADQUARTERS (CA)  
Fixed Asset #: 14590403  
208 S. Akard Street  
Dallas, Texas 75202-4206

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

1 Either party may change its address by notifying the other party of the change of address.  
2 Notice shall be deemed communicated within forty-eight (48) hours from the time of mailing  
3 if mailed as provided in this Section.

4 IN WITNESS WHEREOF the parties have executed this document with all  
5 formalities required by law as of the date stated above.

6  
7 New Cingular Wireless PCS, LLC, a Delaware  
8 limited liability company that is a wholly-  
9 owned, indirect subsidiary of AT&T, Inc., as  
10 successor by assignment by the Los Angeles  
Regional Interoperable Communications  
System (LA-RICS)

11 5/24, 2023 By: Misty Snowden  
Name: Misty Snowden  
Its: Area Manager

"Lessee"

15 CITY OF LONG BEACH, a municipal  
16 corporation

17 June 13, 2023 By: Sandra J. Jabon  
City Manager

18 EXECUTED PURSUANT  
19 "City" TO SECTION 301 OF  
THE CITY CHARTER.

20 Approved as to form this 6 day of June, 2023.

21 DAWN MCINTOSH, City Attorney  
22  
23 By: [Signature]  
24 Deputy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Exhibit A**  
**Legal Description of the Property**

Long Beach Police Headquarters  
400 West Broadway  
Long Beach, CA

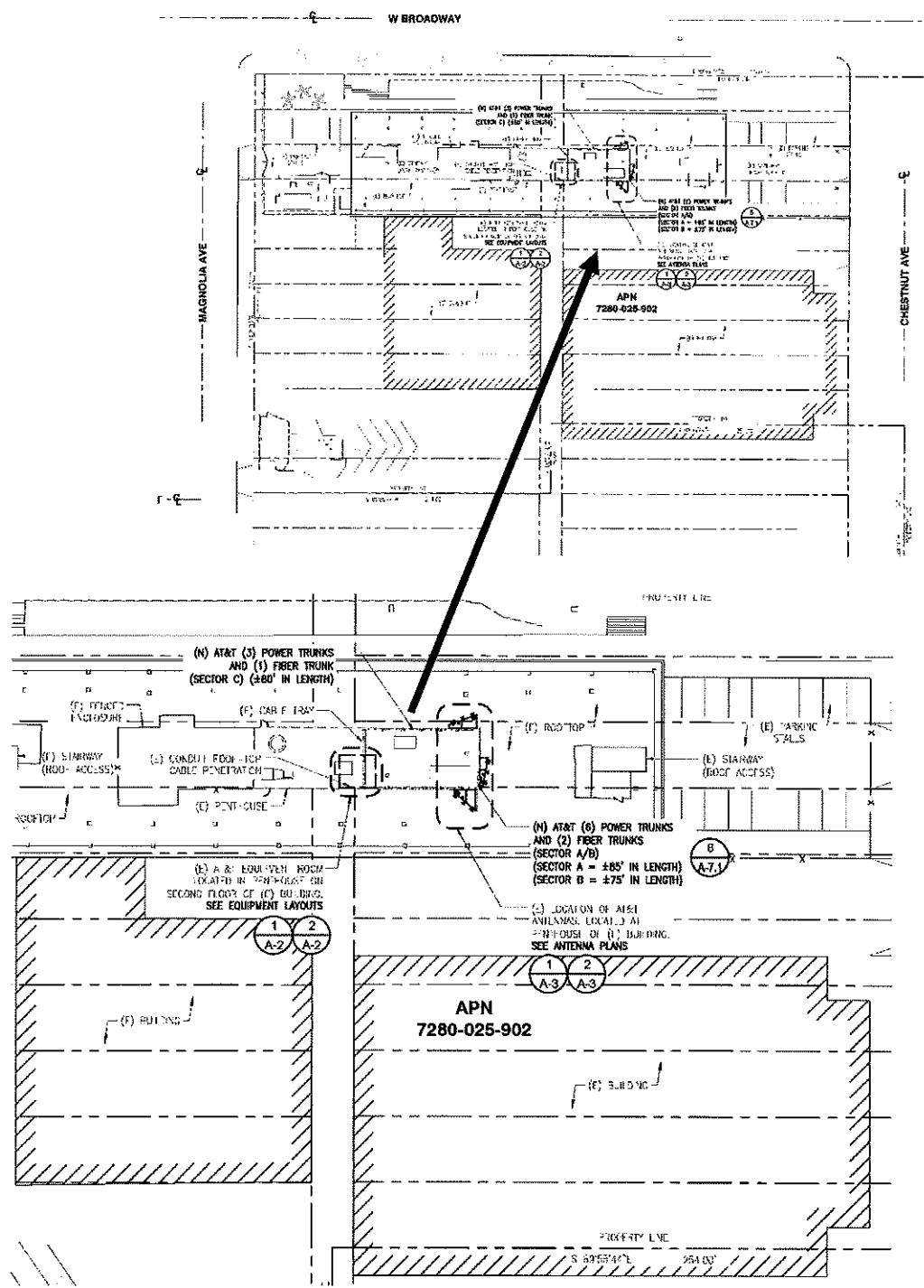
APN APN: 7280-025-902 - Lot Number: 1-40 Block: 107,108 Tract No: 10053  
Brief Description: \*VAC STS AND ALLEYS LOTS 1 THRU 40, A THRU J BLK 107 AND  
B, D, F AND H AND LOTS 1 THRU 12, 14 AND 16 BLK 108 et al

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

**Exhibit B  
Description of the Premises**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664



Sector A: +/-48 sq. ft.  
Sector B: +/-72 sq. ft.  
Sector C: +/-69 sq. ft.  
Equipment Area: +/-203 sq. ft.  
Total combined area +/- 392 sq. ft.