RESOLUTION NO. 25-09-15

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AMENDMENT 1 TO THE LEASE AGREEMENT WITH CROWN CASTLE SOUTH, LLC. FOR ADDITIONAL EXTENSION TERMS TO THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park ("Town") is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, pursuant to its proprietary functions and authority, the Town owns and the property at 700 6th Street; and

WHEREAS, Crown Castle South LLC. (Crown Castle) has negotiated with the Town Manager an amendment to the existing lease; and

WHEREAS, the Town Manager has negotiated the terms the Amendment 1 with Crown Castle to amend the Agreement by replacing "four (4)" additional five (5)-year extension terms with "eight (8)" additional five (5)-year extension terms thereby adding four (4) additional five (5)-year extension terms to the Agreement beyond the Original Term, and extending its total term to August 9, 2039 unless sooner terminated as provided in the Agreement; and

WHEREAS, the Town Manager has recommended to the Town Commission that it enter into an Amendment 1 Lease Agreement with Crown Castle.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Mayor is hereby authorized and directed to execute the Amendment 1 to the Lease Agreement with Crown Castle. A copy of the Amendment 1 Lease Agreement is attached hereto and incorporated herein as Exhibit **"A"**.

Section 3. This Resolution shall be effective upon adoption.

The foregoing Resolution was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Commissioner Rapoza, and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	✓	
VICE-MAYOR KIMBERLY GLAS-CASTRO	✓	
COMMISSIONER ERIN FLAHERTY	✓	
COMMISSIONER MICHAEL O'ROURKE	✓	
COMMISSIONER KATHLEEN RAPOZA	✓	

The Town Commission thereupon declared the foregoing Resolution NO. 25-09-15 duly passed and adopted this 2 day of September, 2015.

TOWN OF LAKE PARK, FLORIDA

BY: _____
JAMES DUBOIS
MAYOR

ATTEST:

_____
VIVIAN MENDEZ
TOWN CLERK

TOWN OF LAKE PARK SEAL FLORIDA
(TOWN SEAL)

Approved as to form and legal sufficiency:

BY: _____
THOMAS J. BAIRD
TOWN ATTORNEY

Prepared out of State.
Return to:
Crown Castle
1220 Augusta, Suite 500
Houston, Texas 77057

Cross Index with Book 8391, Page 594

Tax Parcel #: 036-43-42-20-01-061-0250

MEMORANDUM OF FIRST AMENDMENT TO LEASE AGREEMENT

THIS MEMORANDUM OF FIRST AMENDMENT TO LEASE AGREEMENT ("Amended Memorandum") is made effective this _____ day of _____, 2015, by and between the TOWN OF LAKE PARK, a Florida municipal corporation ("Town"), with a mailing address of 535 Park Avenue, Lake Park, Florida 33403, and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company, and the successor by merger with Bellsouth Personal Communications LLC, a Delaware limited liability company, dated December 31, 2004, for itself and as general partner of BellSouth Carolinas PCS, L.P., a Delaware limited partnership ("Tenant"), with a mailing address of New Cingular Wireless, Suite 13-F West Tower, 575 Morosgo Drive, Atlanta, GA 30324.

WHEREAS, Town and Bellsouth Mobility Inc., a Georgia corporation ("Bellsouth"), entered into a Lease Agreement dated August 1, 1994 (as amended and assigned, the "Agreement"), and recorded in Book 8391, Page 594 in the Office of the Clerk of Circuit Court of Palm Beach County ("Clerk's Office"), whereby Town leased to Bellsouth a portion of land being described as a 35 feet by 65 feet (2,275 square feet) portion of that property (said leased portion being the "Property") located at 700 6th Street (Tax Parcel #36-43-42-20-01-061-0250), Lake Park, Palm Beach County, State of Florida, together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Agreement; and

WHEREAS, Tenant is the successor-in-interest in the Agreement to Bellsouth; and

WHEREAS, the Agreement has an original term, including all extension terms, that will expire on August 9, 2019 ("Original Term"), and Town and Tenant now desire to amend the

terms of the Agreement to provide for additional extension terms beyond the Original Term, and to make other changes; and

WHEREAS, Town and Tenant made and entered into a First Amendment to Lease Agreement of even date herewith ("First Amendment") and pursuant to the terms of, and for that consideration recited in, the First Amendment, the parties wish to hereby amend certain provisions of the Agreement, and provide this Amended Memorandum as notice thereof, as follows:

1. Town does hereby lease unto Tenant, its successors and assigns, the Property for four (4) additional five (5)-year extension terms beyond the Original Term, such that the Original Term and all extension terms of the Agreement may last for a term of forty-five (45) years, expiring on August 9, 2039, unless sooner terminated as provided in the Agreement; provided that upon expiration of the last extension term, the Agreement shall continue for annual terms thereafter until either party terminates the Agreement in accordance with the terms therein.

2. The description of the Property is as provided in the Agreement recorded in the Clerk's Office in Book 8391, Page 594.

3. If Town receives an offer from any person or entity that owns towers or other wireless telecommunications facilities (or is in the business of acquiring Town's interest in the Agreement) to purchase fee title, an easement, a lease, a license, or any other interest in the Property, or Town's interest in the Agreement, or an option for any of the foregoing, Town shall provide written notice to Tenant of said offer, and Tenant shall have a right of first refusal to acquire such interest on the same terms and conditions in the offer, excluding any terms or conditions which are (i) not imposed in good faith or (ii) directly or indirectly designed to defeat or undermine Tenant's possessory or economic interest in the Property. The details of the right of first refusal granted to Tenant in the First Amendment are provided in the First Amendment.

4. Town has granted Tenant an Option (as defined in the First Amendment) to lease an additional 2,000 square feet of land contiguous to the Property during the term of the Agreement, which Option is more particularly defined in the First Amendment. The consideration for the additional land shall be calculated as provided in the First Amendment. The Option shall expire upon the expiration of the Agreement. Town may not market, lease, license, grant easement rights over or otherwise encumber any property which would prevent or interfere with Tenant exercising the Option.

5. If requested by Tenant, Town will execute, at Tenant's sole cost and expense, all documents required by any governmental authority in connection with any development of, or construction on, the Property, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Tenant in Tenant's absolute discretion to utilize the Property for the purpose of constructing, maintaining and operating communications facilities, including without limitation, tower structures, antenna support structures, cabinets, meter boards, buildings, antennas, cables, equipment and uses incidental thereto. Town agrees to be named applicant if requested by Tenant. Town shall be entitled to no further consideration with respect to any of the foregoing matters.

6. This Amended Memorandum contains only selected provisions of the First Amendment, and reference is made to the full text of the Agreement and the First Amendment for their full terms and conditions, which are incorporated herein by this reference. Except as otherwise provided in the First Amendment and this Amended Memorandum, the terms and conditions of the Agreement remain in full force and effect. This instrument may be executed in any number of counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Town and Tenant have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

TOWN:

Signed, sealed and delivery
in the presence of:

TOWN OF LAKE PARK,
a Florida municipal corporation

Janet Perry
Print Name: Janet Perry

Janet Miller
Print Name: Janet Miller

By: _____ (SEAL)
Print Name: James DuBois
Title: Mayor

TOWN OF LAKE PARK SEAL FLORIDA

STATE OF Florida)
) SS:
COUNTY OF Palm Beach)

The foregoing Memorandum of First Amendment to Lease Agreement was signed, sealed, delivered, and acknowledged before me this 3 day of September, 2015, by James DuBois, Mayor (Title), of the Town of Lake Park, a Florida municipal corporation, for and on behalf of the corporation who [✓] is personally known to me or who [ ] produced a _____ as identification.

(Seal)

VIVIAN MENDEZ
Notary Public - State of Florida
My Comm. Expires Feb 24, 2017
Commission # FF 008807
Bonded Through National Notary Assn.

Vivian Mendez
Notary Public
Print Name: Vivian Mendez

My Commission Expires: Feb. 24, 2017

IN WITNESS WHEREOF, Town and Tenant have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

TENANT:

Signed, sealed and delivery
in the presence of:

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

_____

Print Name: _____

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

_____

Print Name: _____

By:_____(SEAL)
Nellie Jabbari
Area Manager Real Estate Transactions

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing Memorandum of First Amendment to Lease Agreement was signed, sealed, delivered, and acknowledged before me this _____ day of _____, 2015, by Nellie Jabbari, Area Manager Real Estate Transactions of AT&T Mobility Corporation, a Delaware corporation, Manager for New Cingular Wireless PCS, LLC, a Delaware limited liability company, for and on behalf of the corporation who [ ] is personally known to me or who [ ] produced a _____ as identification.

(Seal)

_____
Notary Public
Print Name: _____

My Commission Expires: _____

FIRST AMENDMENT TO LEASE AGREEMENT
(BU 811572)

THIS FIRST AMENDMENT TO LEASE AGREEMENT ("First Amendment") is made effective this _____ day of _____, 2015, by and between the TOWN OF LAKE PARK, a Florida municipal corporation ("Town"), and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company, and the successor by merger with BellSouth Personal Communications LLC, a Delaware limited liability company, dated December 31, 2004, for itself and as general partner of Bellsouth Carolinas PCS, L.P., a Delaware limited partnership ("Tenant").

WHEREAS, Town and Bellsouth Mobility Inc., a Georgia corporation ("Bellsouth"), entered into a Lease Agreement dated August 1, 1994 (as amended and assigned, the "Agreement"), and recorded in Book 8391, Page 594 in the Office of the Clerk of Circuit Court of Palm Beach County ("Clerk's Office"), whereby Town leased to Bellsouth a portion of land being described as a 35 feet by 65 feet (2,275 square feet) portion of that property (said leased portion being the "Property") located at 700 6th Street (Tax Parcel #36-43-42-20-01-061-0250), Lake Park, Palm Beach County, State of Florida, together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Agreement; and

WHEREAS, Tenant is the successor-in-interest in the Agreement to Bellsouth; and

WHEREAS, the Agreement has an original term, including all extension terms, that will expire on August 9, 2019 ("Original Term"), and Town and Tenant now desire to amend the terms of the Agreement to provide for additional extension terms beyond the Original Term, and to make other changes.

NOW THEREFORE, in exchange for the mutual promises contained herein, Town and Tenant agree to amend the Agreement as follows:

1. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. The recitals in this First Amendment are incorporated herein by this reference.

2. Section 4B of the Agreement is amended by replacing "four (4)" with "eight (8)", thereby adding four (4) additional five (5)-year extension terms to the Agreement beyond the Original Term, and extending its total term to August 9, 2039, unless sooner terminated as provided in the Agreement.

3. Section 4C of the Agreement is amended by adding the following to the end thereto:

> Notwithstanding the foregoing, commencing on August 10, 2015, the annual rental fee shall no longer increase by four percent (4%) annually. Instead, commencing on August 10, 2015, and every year thereafter (each an "Adjustment Date"), the annual rental fee shall increase by an amount equal to three percent

(3%) of the annual rental fee in effect for the year immediately preceding the Adjustment Date.

4. Section 4D of the Agreement is amended by replacing "fourth (4th)" in each place it appears with "eighth (8th)", and by replacing "four (4%) per cent" with "three percent (3%)".

5. On the first day of the second full month following full execution of this First Amendment, the annual rental fee shall increase to Thirty Five Thousand Four Hundred and No/100 Dollars ($35,400.00) per year. Following such increase, the annual rental fee shall continue to adjust pursuant to the terms of the Agreement as amended by Section 3 of this First Amendment.

6. Section 4E of the Agreement is amended to replace "fourth (4^{th})" with "eighth (8^{th})".

7. Section 5 of the Agreement is amended by replacing the second sentence with the following:

> Notwithstanding anything in this Agreement to the contrary, TENANT and its sublessees and licensees shall have the right to modify, alter, add, replace, remove and maintain wireless communications facilities located within the Property without the consent or approval of TOWN. TENANT shall provide written notice to TOWN within sixty (60) days after any such modification, alteration, addition, replacement or removal to the wireless communications facilities is completed.

8. Section 16 of the Agreement is amended by deleting Tenant's notice address and inserting the following:

Tenant:	AT&T Network Real Estate Administration Re: 10023543 Suite 13-F West Tower 575 Morosgo Drive Atlanta, Georgia 30324
With a copy to:	AT&T Legal Department- Network Attn: Network Counsel Re: 10023543 208 S. Akard Street Dallas, Texas, 75202-4206
With a copy to:	Crown Castle South LLC c/o Crown Castle USA Inc. E. Blake Hawk, General Counsel Attn: Legal-Real Estate Department 2000 Corporate Drive Canonsburg, Pennsylvania 15317-8564

9. The Agreement is amended by adding a new Section 26 to the end thereto:

26. If TOWN receives an offer from any person or entity that owns towers or other wireless telecommunications facilities (or is in the business of acquiring TOWN'S interest in this Agreement) to purchase fee title, an easement, a lease, a license, or any other interest in the Property, or TOWN'S interest in this Agreement, or an option for any of the foregoing, TOWN shall provide written notice to TENANT of said offer, and TENANT shall have a right of first refusal to acquire such interest on the same terms and conditions in the offer, excluding any terms or conditions which are (i) not imposed in good faith or (ii) directly or indirectly designed to defeat or undermine TENANT'S possessory or economic interest in the Property. If TOWN'S notice covers portions of TOWN'S parent parcel beyond the Property, TENANT may elect to acquire an interest in only the Property, and the consideration shall be pro-rated on an acreage basis. TOWN'S notice shall include the prospective buyer's name, the purchase price and/or other consideration being offered, the other terms and conditions of the offer, the due diligence period, the proposed closing date and, if a portion of TOWN'S parent parcel is to be sold, leased or otherwise conveyed, a description of said portion. If the TOWN'S notice shall provide for a due diligence period of less than sixty (60) days, then the due diligence period shall be extended to be sixty (60) days from exercise of the right of first refusal and closing shall occur no earlier than fifteen (15) days thereafter. If TENANT does not exercise its right of first refusal by written notice to TOWN given within thirty (30) days, TOWN may convey the property as described in the TOWN'S notice. If TENANT declines to exercise its right of first refusal, then this Agreement shall continue in full force and effect and TENANT'S right of first refusal shall survive any such conveyance. TENANT shall have the right, at its sole discretion, to assign the right of first refusal to any person or entity, either separate from an assignment of this Agreement or as part of an assignment of this Agreement. Such assignment may occur either prior to or after TENANT'S receipt of TOWN'S notice and the assignment shall be effective upon written notice to TOWN.

10. The Agreement is amended by adding a new Section 27 to the end thereto:

27. TENANT shall have the right to sublease or license use of the Property without the consent or approval of TOWN. TENANT shall provide written notice to TOWN of any new subleases or licenses within sixty (60) days after such sublease or license is fully executed.

11. If at any time prior to August 9, 2019: (a) Tenant exercises any of Tenant's rights to terminate the Agreement, or (b) Tenant elects not to renew the Agreement, Tenant shall pay a termination fee ("Termination Fee") equal to the amount of rent that Tenant would have owed to Town under this Agreement, as amended, between the date of such early termination or election not to renew, as the case may be, and August 9, 2019. The Termination Fee will be due and payable in the same manner and on the same dates set forth in this Agreement. Notwithstanding

the foregoing, Tenant will be released from any and all of its obligations under the Agreement as of the effective date of such termination and shall not be required to pay the Termination Fee if Tenant terminates the Agreement due to a Town default.

12. In addition to the rent currently paid by Tenant to Town pursuant to the Agreement, as further consideration for the right to exclusively use and lease the Property, if, after full execution of this First Amendment, Tenant subleases, licenses or grants a similar right of use or occupancy in the Property to an unaffiliated third party not already a subtenant on the Property (each a "Future Subtenant"), Tenant agrees to pay to Town fifty percent (50%) of the rental, license or similar payments actually received by Tenant from such Future Subtenant (excluding any reimbursement of taxes, construction costs, installation costs, revenue share reimbursement or other expenses incurred by Tenant) (the "Additional Rent") within thirty (30) days after receipt of said payments by Tenant. Tenant shall have no obligation for payment to Town of such share of rental, license or similar payments if not actually received by Tenant. Non-payment of such rental, license or other similar payment by a Future Subtenant shall not be an event of default under the Agreement. Tenant shall have sole discretion as to whether, and on what terms, to sublease, license or otherwise allow occupancy of the Property and there shall be no express or implied obligation for Tenant to do so. Town acknowledges that Town shall have no recourse against Tenant as a result of the failure of payment or other obligation by a Future Subtenant. Notwithstanding anything in this paragraph to the contrary, the parties agree and acknowledge that (i) revenue derived from subtenants and any successors and/or assignees of such subtenants who commenced use and/or sublease of the Property prior to execution of this First Amendment shall be expressly excluded from the Additional Rent and Town shall have no right to receive any portion of such revenue; and (ii) any payments made between or among Tenant and Crown Castle South LLC, a Delaware limited liability company, or their parents, affiliates, successors and/or assigns shall be expressly excluded from the provisions of this Section and Town shall have no right to receive any portion of such payments.

13. As further consideration for the Additional Rent as set forth in Section 12 of this First Amendment, during the term of the Agreement Tenant shall have the irrevocable option ("Option") to lease up to a maximum of 2,000 square feet of real property adjacent to the existing Property at a location to be determined at Tenant's sole discretion ("Additional Lease Area") on the same terms and conditions set forth in the Agreement. Tenant may conduct any reasonable due diligence activities on the Additional Lease Area at any time after full execution of this First Amendment. If Tenant elects to exercise the Option, the Additional Lease Area shall also be subject to the Section 12 revenue sharing provision. Tenant may exercise the Option by providing written notice to Town at any time; provided, however, that following Tenant's delivery of notice to Town, Tenant may at any time prior to full execution of the Additional Lease Area Documents withdraw its election to exercise the Option if Tenant discovers or obtains any information of any nature regarding the Additional Lease Area which Tenant determines to be unfavorable in its sole discretion. Within thirty (30) days after Tenant's exercise of the Option, Town agrees to execute and deliver an amendment to the Agreement, a memorandum of lease and/or amendment, and any other documents necessary to grant and record Tenant's interest in the Additional Lease Area ("Additional Lease Area Documents"). In addition, within thirty (30) days after Tenant's exercise of the Option, Town shall obtain and deliver any documentation

necessary to remove, subordinate or satisfy any mortgages, deeds of trust, liens or encumbrances affecting the Additional Lease Area to Tenant's satisfaction.

14. Once per calendar year, Town may submit a written request to Tenant for a business summary report pertaining to Tenant's rent obligations for the prior twelve (12) month period, and Tenant shall provide such written accounting to Town within sixty (60) days after Tenant's receipt of such written request.

15. If requested by Tenant, Town will execute, at Tenant's sole cost and expense, all documents required by any governmental authority in connection with any development of, or construction on, the Property, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Tenant in Tenant's absolute discretion to utilize the Property for the purpose of constructing, maintaining and operating communications facilities, including without limitation, tower structures, antenna support structures, cabinets, meter boards, buildings, antennas, cables, equipment and uses incidental thereto. Town agrees to be named applicant if requested by Tenant. Town shall be entitled to no further consideration with respect to any of the foregoing matters.

16. Representations, Warranties and Covenants of Town. Town represents, warrants and covenants to Tenant as follows:

(a) Town is duly authorized to and has the full power and authority to enter into this First Amendment and to perform all of Town's obligations under the Agreement as amended hereby.

(b) Except as expressly identified in this First Amendment, Town owns the Property free and clear of any mortgage, deed of trust, or other lien secured by any legal or beneficial interest in the Property, or any right of any individual, entity or governmental authority arising under an option, right of first refusal, lease, license, easement or other instrument other than any rights of Tenant arising under the Agreement as amended hereby and the rights of utility providers under recorded easements.

(c) Upon Tenant's request, Town shall discharge and cause to be released (or, if approved by Tenant, subordinated to Tenant's rights under the Agreement as amended hereby) any mortgage, deed of trust, lien or other encumbrance that may now or hereafter exist against the Property.

(d) Upon Tenant's request, Town shall cure any defect in Town's title to the Property which in the reasonable opinion of Tenant has or may have an adverse effect on Tenant's use or possession of the Property.

(e) Tenant is not currently in default under the Agreement, and to Town's knowledge, no event or condition has occurred or presently exists which, with notice or the passage of time or both, would constitute a default by Tenant under the Agreement.

(f) Town agrees to execute and deliver such further documents and provide such further assurances as may be requested by Tenant to effect any release or cure referred to in this paragraph, carry out and evidence the full intent and purpose of the parties under the Agreement as amended hereby, and ensure Tenant's continuous and uninterrupted use, possession and quiet enjoyment of the Property under the Agreement as amended hereby.

17. IRS Form W-9. Town agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this First Amendment and at such other times as may be reasonably requested by Tenant. In the event the Property is transferred, the succeeding landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in rent to the new landlord. Town's failure to provide the IRS Form W-9 within thirty (30) days after Tenant's request shall be considered a default and Tenant may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

18. In all other respects, the remainder of the Agreement shall remain in full force and effect. Any portion of the Agreement that is inconsistent with this First Amendment is hereby amended to be consistent with this First Amendment. This First Amendment supersedes that certain Letter Agreement by and between Town and Tenant dated November 24, 2014, and in case of any conflict or inconsistency between the terms and conditions contained in the Letter Agreement and the terms and conditions contained in this First Amendment, the terms and conditions in this First Amendment shall control. This instrument may be executed in any number of counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Town and Tenant have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

TOWN:

TOWN OF LAKE PARK,
a Florida municipal corporation

By: _____(SEAL)
Print Name: James DuBois
Title: Mayor

TOWN OF LAKE PARK SEAL FLORIDA

IN WITNESS WHEREOF, Town and Tenant have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

TENANT:

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

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

By:_____ (SEAL)
Nellie Jabbari
Area Manager Real Estate Transactions