

ORDINANCE NO. 2014-20

INTRODUCED BY: Mayor Rinker and Council as a Whole

**AN EMERGENCY ORDINANCE
AUTHORIZING AND DIRECTING
THE MAYOR AND PRESIDENT OF COUNCIL
TO ENTER INTO A FIRST AMENDMENT
TO OPTION AND TOWER LEASE AGREEMENT.**

WHEREAS, Landlord and Tenant entered into an Option and Tower Lease Agreement dated February 11, 1997, whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at 770 SOM Center Road, Mayfield Village, OH 44143 ("Agreement"); and

WHEREAS, Landlord and Tenant desire to amend the Agreement to modify the notice section thereof; and

WHEREAS, Landlord and Tenant desire to amend the Agreement to permit Tenant 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; and

WHEREAS, Landlord and Tenant, in their mutual interest, wish to amend the Agreement as set forth below accordingly; and

WHEREAS, Council deems it in its best interest to enter into the First Amendment to Option and Tower Lease Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF MAYFIELD VILLAGE, OHIO, THAT:

SECTION 1. Council authorizes the Mayor and President of Council to enter into a First Amendment to Option and Tower Lease Agreement a copy of which is attached hereto and incorporated herein by reference as Exhibit "A", on behalf of the Village.

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the health, safety and welfare of the residents of Mayfield Village,

Ohio. It shall, therefore, take effect immediately upon the passage by the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.



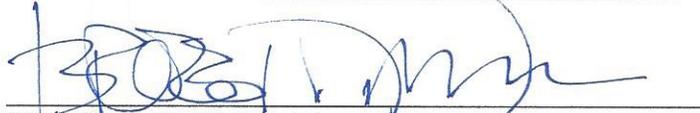
WILLIAM BUCKHOLTZ
Council President

First Reading: August 18, 2014

Second Reading: Suspended 2014

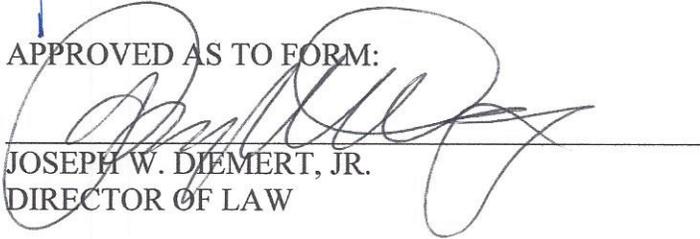
Third Reading: Suspended 2014

PASSED: August 18, 2014



BRUCE G. RINKER, Mayor

APPROVED AS TO FORM:



JOSEPH W. DIEMERT, JR.
DIRECTOR OF LAW

ATTEST: Mary E. Betsa
MARY E. BETSA,
Clerk of Council

Market: ROWP
Cell Site Number: CLE007A
Cell Site Name: CLE007A/Mayfield
Fixed Asset Number: 10083290
Reference Number of
Prior Recorded Documents: _____

FIRST AMENDMENT TO OPTION AND TOWER LEASE AGREEMENT

THIS FIRST AMENDMENT TO OPTION AND TOWER LEASE AGREEMENT ("**Amendment**"), dated as of the latter of the signature dates below, is by and between Village of Mayfield, an Ohio municipal corporation, having a mailing address of 6622 Wilson Mills Road, Mayfield Village, OH 44143 ("**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Suite 13-F West Tower, Atlanta, GA 30324 ("**Tenant**").

WHEREAS, Landlord and Tenant entered into an Option and Tower Lease Agreement dated February 11, 1997, whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at 770 SOM Center Road, Mayfield Village, OH 44143 ("**Agreement**"); and

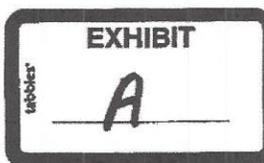
WHEREAS, Landlord and Tenant desire to amend the Agreement to modify the notice section thereof; and

WHEREAS, Landlord and Tenant desire to amend the Agreement to permit Tenant 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; and

WHEREAS, Landlord and Tenant, in their mutual interest, wish to amend the Agreement as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **New Premises Area.** Landlord agrees to increase the size of the Premises leased to Tenant to accommodate Tenant's needs. Upon the execution of this Amendment, Landlord leases to Tenant the additional premises described on attached Exhibit 1-A, attached hereto and incorporated herein ("**New Premises Area**"). Landlord's execution of this Amendment will signify Landlord's approval of Exhibit 1-A. The Premises under the Agreement prior to this Amendment in addition to the New Premises Area under this Amendment shall be the Premises under the Agreement.



2. **Generator.** Tenant shall have the right to install, repair, maintain, modify, replace, remove, utilize and operate (including but not limited to operate as may be required by applicable law) equipment within the New Premises Area, including without limitation a concrete pad and generator thereon, including back-up power supply. Tenant shall have the right to access the New Premises Area, and any provisions in the Agreement governing access shall apply to such access. The generator shall remain the property of Tenant, and Tenant shall have the right to remove or modify it at any time.
3. **Rent.** Commencing the first day of the month following commencement of installation within the New Premises Area ("Increase Commencement Date"), Rent shall be increased by Five Hundred and No/100 Dollars (\$500.00) per month, subject to further adjustments, if any, as provided in the Agreement; provided that the first such increased payment shall not be due until sixty (60) days after such commencement date and provided further that, any partial month occurring after the Increase Commencement Date, the increased Rent amount shall be pro-rated.
4. Tenant shall have the right to install and maintain cables from its equipment within the New Premises Area to its equipment within the rooftop area of the Premises within spaces and pathways mutually agreed to by the parties, agreement of Landlord not to be unreasonably withheld, delayed or conditioned on payment of additional consideration.
5. **Other.** Landlord represents and warrants that, to its knowledge, no conditions exist within the New Premises Area or otherwise on the property where the Premises and New Premises Area are located that would adversely impact Tenant's permitting and/or installation of a generator within the New Premises Area. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain any government approvals for Tenant's use of the New Premises Area under this Agreement and agrees, at Tenant's request, to reasonably assist Tenant with such applications and with obtaining and maintaining the government approvals. Where applicable law governs how the generator will be used, Tenant may use the generator in the manner set forth in applicable law. Tenant may terminate this Amendment by written notice to Landlord at any time, and the rent increase set forth in Section 3 shall not take effect or shall be cancelled, as applicable, following any such termination. Within one hundred twenty 120 days after termination of this Amendment, Tenant shall remove its equipment from the New Premises Area; provided that any portions of the equipment that Tenant fails to remove within such period and cessation of Tenant's operations at the New Premises Area shall be deemed abandoned. Tenant shall repair any damage, less ordinary wear and tear, to the New Premises Area caused by its removal activities.
6. **Notices.** Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following:

NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows.

If to
LANDLORD:

Village of Mayfield
Attn: Finance Director
6622 Wilson Mills Rd.
Mayfield Village, OH
44143

If to
TENANT:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate
Administration
Re: Cell Site # CLE007A
Cell Site Name: CLE007A/Mayfield
Fixed Asset #: 10083290
575 Morosgo Drive NE
Suite 13-F West Tower
Atlanta, GA 30324

With copy to:

Joseph W. Diemert, Jr.
Attn: Law Director
Joseph W. Diemert, Jr.
& Associates, Co. LPA
1360 SOM Center Rd.
Cleveland, Ohio 44124

With copy to:

New Cingular Wireless PCS, LLC
Attn: Legal Department
Re: Cell Site # CLE007A

Cell Site Name: CLE007A/Mayfield
Fixed Asset #: 10083290
AT&T Legal Department -
Network
208 S. Akard Street
Dallas, TX 75202-4206

The copy sent to the Legal Department or Law Director is an administrative step which alone does not constitute legal notice. Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

7. **Emergency 911 Service.** In the future, within the current premises and/or new premises are, Landlord agrees that Tenant may, 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.
8. **Memorandum of Lease.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.
9. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

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

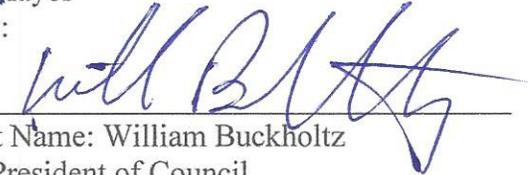
[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Second Amendment to Ground Lease Agreement on the dates set forth below.

LANDLORD:

Village of Mayfield

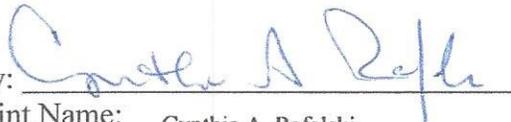
By: 
Print Name: Bruce G. Rinker
Its: Mayor
Date:

By: 
Print Name: William Buckholtz
Its: President of Council
Date:

TENANT:

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

By: AT&T Mobility Corporation
Its: Manager

By: 
Print Name: Cynthia A. Rafalski
Its: Manager, Real Estate/Construction
Date: 7/25/2014

OH5007
10083290

OHIO LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT

STATE OF OHIO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 201____, by _____, the _____ of _____.

Notary Seal

(Signature of Notary)
My Commission Expires: _____

TENANT ACKNOWLEDGEMENT

STATE OF Ohio)
)ss.
COUNTY OF Franklin)

The foregoing instrument was acknowledged before me this 25 day of July, 2014 by Cynthia A. Rafalski, the Senior Manager of Retail Enterprise Care of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant in the above instrument, on behalf of the Tenant.

Notary Seal

John F. Werner, II
Notary Public, State of Ohio
My Commission Expires 01-16-2019

[Signature]
(Signature of Notary)
My Commission Expires: 01 16 19

EXHIBIT 1-A

DESCRIPTION OF PREMISES

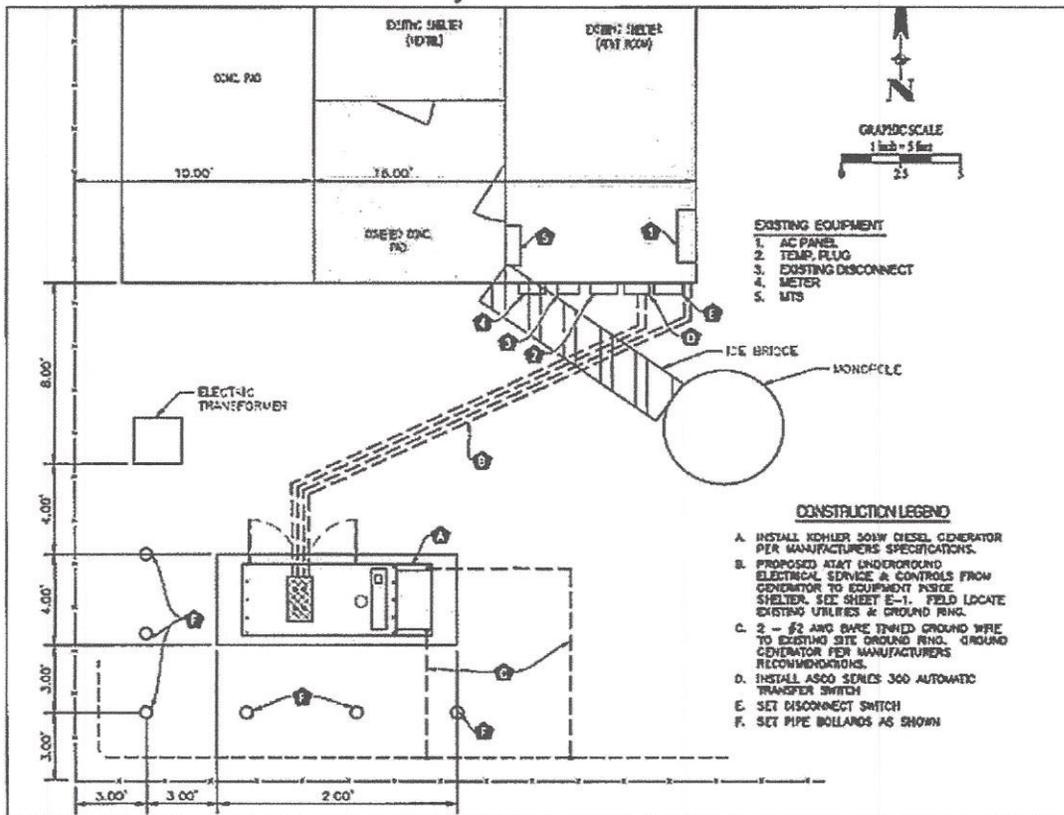
Page ___ of ___

to the First Amendment to Option and Tower Lease Agreement dated _____, 201__, by and between Village of Mayfield, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Premises are described and/or depicted as follows:

Commonly known as: 770 SOM Center Road, Mayfield Village, OH 44143

Lease Area Sketch or Survey:



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.

ATTACHMENT ONE
MEMORANDUM OF FIRST AMENDMENT TO OPTION AND TOWER
LEASE AGREEMENT

Prepared by, and after recording

Return to:

New Cingular Wireless PCS, LLC
575 Morsogo Drive NE, Suite 13-F West Tower
Atlanta, GA 30324
Attn: Network Real Estate Administration
Phone:
E-mail:

Grantor: Village of Mayfield

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

Legal Description: Official legal description attached as Exhibit 1

Cell Site Name & #: CLE007A Fixed Asset #: 10083290
CLE007A/Mayfield

State: Ohio County: Cuyahoga

MEMORANDUM OF FIRST AMENDMENT TO OPTION AND TOWER LEASE
AGREEMENT

This Memorandum of First Amendment to Option and Tower Lease Agreement is entered into on this ____ day of _____, 201__, by and between Village of Mayfield, having a mailing address of 6622 Wilson Village Road, Mayfield Village, OH 44143 (“**Landlord**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morsogo Drive NE, Suite 13-F West Tower, Atlanta, GA 30324 (“**Tenant**”).

1. Landlord and Tenant entered into a certain Option and Tower Lease Agreement (“**Agreement**”) on the 11th day of February, 1997, as amended by that First Amendment to Option and Tower Lease Agreement, dated _____, 20__, for the purpose of installing, operating and maintaining a communications facility and other

improvements. A Memorandum of Lease reflecting the Agreement was recorded in the public records of as noted above.

2. Landlord agrees to increase the size of the Premises to accommodate additional cabinets and additional antennas. Landlord leases to Tenant the Premises as more completely described on attached **Exhibit 1-A**. **Exhibit 1-A** hereby replaces **Exhibit 1-A** to the Agreement.

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

LANDLORD:

Village of Mayfield

By: _____

Print Name: Bruce G. Rinker

Its: Mayor

Date:

By: _____

Print Name: William Buckholtz

Its: President of Council

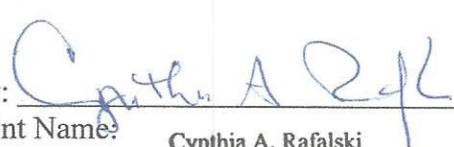
Date:

TENANT:

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

By: AT&T Mobility Corporation

Its: Manager

By:  _____

Print Name:

Cynthia A. Rafalski

Its:

~~or~~ Manager, Real Estate/Construction

Date:

7/25/2014

Prepared by:

Hunter Barrett

General Dynamics

12906 Shelbyville Rd. Suite 230

Louisville, KY 40243

Phone:

E-mail:

OH5007
10083290

OHIO LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT

STATE OF OHIO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 201__, by _____, the _____ of _____.

Notary Seal

(Signature of Notary)

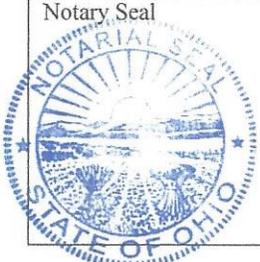
My Commission Expires: _____

AT&T ACKNOWLEDGEMENT

STATE OF Ohio)
)ss.
COUNTY OF Franklin)

The foregoing instrument was acknowledged before me this 25 day of July 2014, by Cynthia A Ratzliff, the Senior Manager of Real Estate Co of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, on behalf of the limited liability company.

Notary Seal



John F. Werner, II
Notary Public, State of Ohio
My Commission Expires 01-16-2019

[Signature]
(Signature of Notary)

My Commission Expires: 01 16 19

EXHIBIT 1

DESCRIPTION OF PREMISES

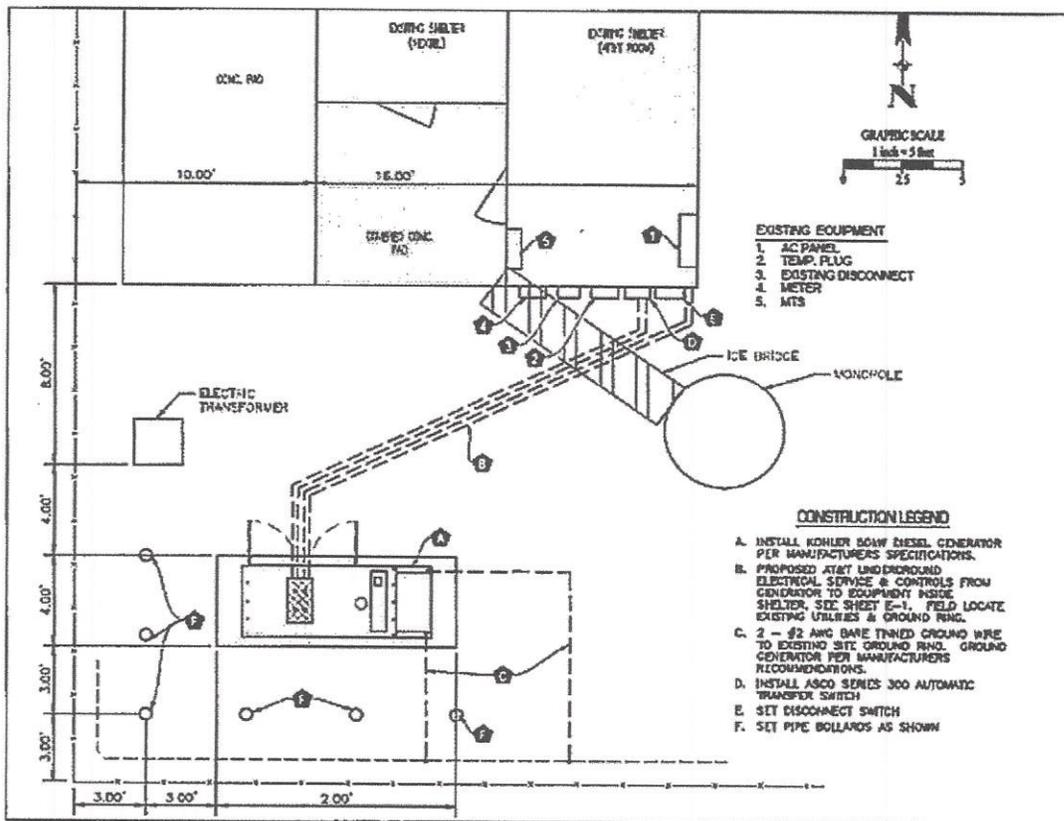
Page ___ of ___

to the First Amendment to Option and Tower Lease Agreement dated _____, 201__, by and between Village of Mayfield, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Premises are described and/or depicted as follows:

Commonly known as: 770 SOM Center Road, Mayfield Village, OH 44143

Lease Area Sketch or Survey:



State: Ohio
City: Mayfield Village
Cell I.D.:CL-007-05

THIS LEASE IS THE PROPERTY OF: AT&T Wireless PCS, Inc.
25000 Great Northern Corporate Center I
Suite 444
N. Olmsted, OH 44070

OPTION AND TOWER LEASE AGREEMENT

THIS OPTION AND TOWER LEASE AGREEMENT (this "Agreement") is entered into this 11th day of February, 1997, ("Effective Date") between AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc., a Delaware Corporation, dba AT&T Wireless Services ("Tenant") and Village of Mayfield, an Ohio municipal corporation ("Landlord").

1. a. In consideration of a fee of \$1,500.00 (the "Option Fee"), paid to Landlord by Tenant within thirty (30) business days after execution of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord grants Tenant an "Option" to lease certain space on Landlord's communications tower and ground space adjacent thereto (the "Premises"), as described in Exhibit B, being a portion of the real property (the "Property"), as described in Exhibit A and owned by Landlord.

b. This entire agreement is understood to be compatible with and subject to the Landlord's Lease Agreement with Nextel entered into on October 16, 1995.
2. The "First Option" of 12 months shall commence on the Effective Date and may have an "Extension" of 12 additional months by written notice to Landlord during the First Option period and accompanied by an additional fee of \$2,750.00.
3. a. During the First Option and any Extension(s), Landlord grants Tenant a license to go upon the Property and Premises for, and agrees to cooperate with Tenant in, obtaining and maintaining zoning approvals, licenses, tests and permits for construction, maintenance and operation of Tenant's Antenna Facilities, provided same are at Tenant's expense and do not bind Landlord, the Premises or the Property if the Option is not exercised. No construction of facilities or of the tower will take place during the Option Period. Tenant shall restore the premises and indemnify and defend Landlord against loss or damage from exercise of this lease. The "Antenna Facilities" include all improvements, personal property and related facilities for Tenant's "Permitted Use" which includes the transmission and reception of radio communication signals. After exercise of the Option, Tenant may construct, maintain, repair, replace or remove the Antenna Facilities, including sleeves, conduit and cable across the Property to serve the Premises, no part of which shall become a fixture and all of which shall remain the personal property of Tenant, and may be mortgaged by Tenant. Landlord waives

6. a. Tenant shall not, except as permitted by the Agreement, use the Premises in any way which interferes with the use of the Property by Landlord and other tenants and Landlord shall not use, or permit others to use the Property in any way which interferes with Tenant's Permitted Uses.

b. Landlord will permit a tower approved by the Mayfield Village Authorities not to exceed one hundred and ninety feet (190'). Tenant agrees that no interruption of current emergency and safety equipment located on the existing tower will occur. Tenant agrees to place existing and additional antennas at a location on the new tower as required by Landlord. Tenant agrees to purchase and install a back-up repeater antenna on top of the new tower. Landlord agrees that the maximum amount Tenant will spend for the back-up repeater will not exceed four thousand five hundred dollars (\$4,500.00).
7. Subsequent to the installation of Tenant's Antenna Facilities, Landlord shall not permit itself, its Tenants or licensees to install new equipment on the Property if such equipment is likely to cause interference with Tenant's operations. Such interference shall be deemed a material breach by landlord. In the event interference occurs, Landlord agrees to take all reasonable steps necessary to eliminate such interference, in a reasonable time period not to exceed thirty (30) days. However, in the event that such interference cannot be eliminated, within the time frame above, Tenant reserves the right to terminate this Agreement upon ten (10) days notice to the Landlord.
8. Tenant shall be in default upon failure to pay Rent within 10 days after written notice and shall pay a late charge of 4% of the overdue Rent plus the Rent to cure; Landlord shall be in default upon failure to cease Interference within 30 days after written notice; and either shall be in default upon their failure to observe or perform any other of their respective obligations for thirty (30) days after written notice, unless the default cannot be cured within 30 days and the party in default commences a cure within 30 days of notice and works diligently to cure. In the event that Tenant's equipment interferes with any of Landlord's or co-tenant's equipment on the property, Landlord shall immediately notify Tenant who shall have one week to eliminate the interference, yet only forty-eight (48) hours if the interference is considered an emergency nature. If Tenant cannot eliminate the interference within this time frame, Tenant shall cease all operations from the Premises and power down all equipment at the site until such interference is eliminated except for the brief tests necessary for the elimination of the interference.
9. Landlord shall provide: electricity access to the Premises, provided electricity shall be separately metered to Tenant; ingress and egress across the Property from an improved public road; and 24 hour, 7 day per week access over and under the Property to construct, maintain and service the Premises and the Antenna Facilities. Landlord grants Tenant an easement

during the Lease to park one vehicle (1) upon the Property, outside of and adjacent to the Premises.

10. Tenant may terminate this Lease, without further liability, on 30 days written notice provided, however, that such termination does not interfere with the rights of other Tenants or Licensees of Landlord if: (a) Tenant is unable to obtain or loses any governmental approval necessary to construct or use the Antenna Facilities in Tenant's business. Tenant shall have no obligation to appeal or seek renewal of such governmental approvals; or (b) the Premises, in Tenant's good faith judgment, are or become unacceptable or unusable under Tenant's then current design or engineering specifications for the Antenna Facilities or the Permitted Use or the communications system to which the Antenna Facilities belong.
11. Tenant shall pay personal property taxes attributable to the Antenna Facilities. Landlord shall pay when due all real property taxes, fees and assessments attributable to the Property and Premises. Tenant will carry commercial general liability insurance in an aggregated amount of \$2,000,000.00 and name Landlord as an additional insured on the policy or policies. Landlord and Tenant shall look solely to insurance for loss due to any peril which is covered by insurance and neither party's insurance company shall be subrogated to a claim against the other party. Each party shall indemnify, hold harmless and defend the other against loss from the their acts and the acts of their employees and agents. The parties shall share in a condemnation award in proportion to their interest in the property taken.
12. All notices and demands shall be in writing and shall be deemed given if personally delivered, mailed by certified mail, return receipt requested, or sent by overnight carrier to the following:
TENANT:

| | |
|------------------------------------|----------------------------------|
| AT&T Wireless PCS, Inc. | AT&T Wireless PCS, Inc. |
| 25000 Great Northern Corp. | 25000 Great Northern Corp. Ctr I |
| Center 1- Suite 444 | Suite 444 |
| North Olmsted, OH 44070 | N. Olmsted, OH 44070 |
| Attn: Director, System Development | Attn: General Counsel |

LANDLORD:

| | | |
|------------------------|---------------------------|------------------------|
| Village of Mayfield | Village of Mayfield | Village of Mayfield |
| 6621 Wilson Mills Rd. | 6621 Wilson Mills Rd | 6621 Wilson Mills Rd |
| Mayfield Village, Ohio | Mayfield Village, Ohio | Mayfield Village, Ohio |
| 44143 | 44143 | 44143 |
| Attn: Mayor | Attn: Director of Finance | Attn: Law Director |
13. Tenant represents, warrants and covenants that it will conduct its activities on the Property in compliance with all applicable Environmental Laws (as defined in attached Exhibit C).

Landlord represents, warrants and agrees that it has in the past and will in the future conduct its activities on the Property in compliance with all applicable Environmental Laws and that the Property is free of Hazardous Substances (as defined in Exhibit C) as of the date of this Lease.

14. Landlord agrees to defend, indemnify and hold Tenant harmless from and against any and all claims, causes of action, demands, and liability including but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorney's fees that Tenant may suffer due to the existence or discovery of any Hazardous Substance on the Property or the migration of any Hazardous Substance to other properties or released into the environment, that relate to or arise from Landlord's activities during this Lease and from all activities on the Property prior to the commencement of this Lease.
15. Landlord covenants and warrants to Tenant that (i) Landlord has full right, power, and authority to execute this Lease; (ii) Landlord has good and unencumbered title to the Property free and clear of any liens or mortgages except those disclosed to Tenant and set forth in Exhibit D attached hereto and which will not interfere with Tenant's rights to or use of the Premises; (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord. Landlord further covenants and warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Lease or any renewal thereof. Landlord represents and warrants that it is a municipal corporation authorized pursuant to the Constitution of the State of Ohio and that the person(s) executing this Lease on Landlord's behalf is/are duly authorized and has the full right, title, and authority to execute and deliver this Lease on behalf of the Landlord, and that this Lease is binding upon Landlord in accordance with its terms.

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 at its expense. If, in the opinion of Tenant, such title report shows any defects of title or any liens or encumbrances which may adversely affect Tenant's use of the Premises or Tenant's ability to obtain leasehold financing, Tenant shall have the right to terminate this Lease upon written notice to Landlord.

Tenant shall also have the right to have the Property surveyed, at Tenant's expense and, in the event that any defects are shown by the survey which, in the opinion of Tenant, may adversely affect Tenant's use of the Premises or Tenant's ability to obtain leasehold financing, Tenant shall have the right to terminate this Lease upon written notice to Landlord.

16. Tenant may with Landlord's prior approval which approval shall not be unreasonably withheld or delayed, assign this Lease and its other rights hereunder, including without limitation, its right to renew, or sublet the Premises or any portion thereof, to any person or

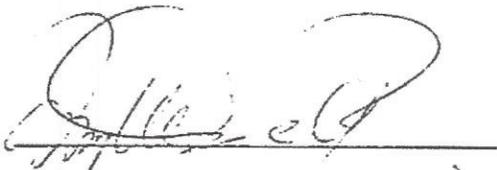
business entity which is licensed by the Federal Communications Commission, or its successor, to operate a wireless communications business only if it is a parent, subsidiary or affiliate of Tenant; controls or is controlled by or under common control with Tenant; is merged or consolidated with Tenant; or purchases a majority or controlling interest in the ownership or assets of Tenant. Upon notification to Landlord by Tenant of any such action, and Landlord's approval which approval shall not be unreasonably withheld or delayed, Tenant shall be relieved of all future performance, liabilities and obligations under this Lease. Tenant may not otherwise assign or sublet this Lease without Landlord's consent, which shall not be unreasonably withheld or delayed.

- 17. Each party shall execute documents for the Premises, Antenna Facilities and Permitted Uses including truthful and reasonable estoppels; memoranda of this Agreement; subordinations, which include non-disturbance clauses; and zoning and permitting requests, applications and authorities upon not more than 30 days' prior notice. This Agreement shall be construed according to the laws of the State of Ohio, shall be construed according to the fair meaning of the language, not strictly construed against either party, and may be signed in counterparts; facsimile signatures shall be sufficient unless originals are required by third parties; may be assigned or sublet; is the complete agreement; and is binding on successors and assigns. The unsuccessful party in litigation shall pay the other's attorney fees and costs. In this Agreement, "include" means "including and not limited to."

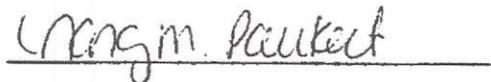
DATED as of the date first set forth above.

Signed and acknowledged in the presence of:

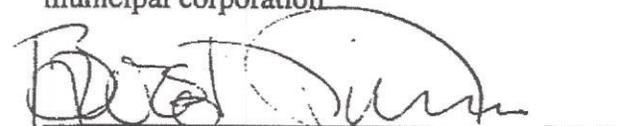
LANDLORD:
Village of Mayfield, an Ohio
municipal corporation



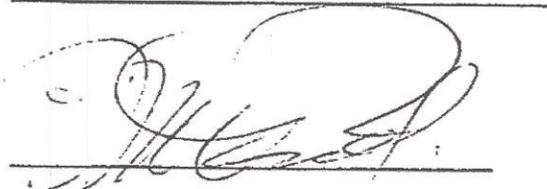
Print Name: Jill Dement



Print Name: Nancy M. Pauckert



By: Bruce G. Rinker
Its: Mayor



Print Name: Mark Fixler

Mark Fixler

Print Name: Nancy M. Packert



Print Name: Nancy M. Packert

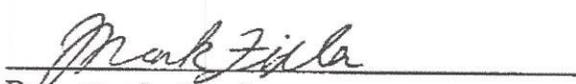
Nancy M. Packert

Print Name: Nancy M. Packert

Approved as to Legal Form:



Joseph W. Diemert, Jr.
Director of Law



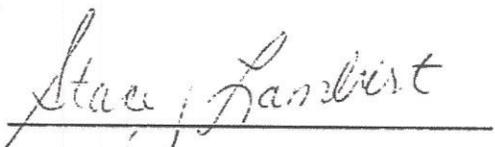
By: Mark Fixler
Its: President of Council



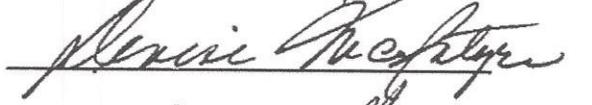
By: Philip M. Brett
Its: Director of Finance

TENANT:

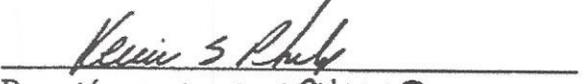
AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services



Print Name: STACEY LAMBERT



Print Name: DENISE MCINTYRE



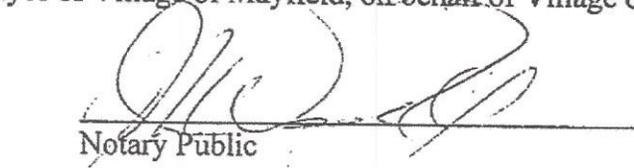
By: KEVIN S. PHILIP
Its: DIRECTOR, SYSTEM DEVELOPMENT

LANDLORD

STATE OF OHIO :

COUNTY OF Cuy : SS

The foregoing instrument was acknowledged before me this 25 day of Jun, 1997, by Walter Runkle, as Mayor of Village of Mayfield, on behalf of Village of Mayfield.

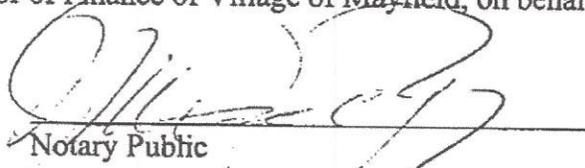


Notary Public
 Section 147.03 Rev. 10-93

STATE OF OHIO :

COUNTY OF Cuy : SS

The foregoing instrument was acknowledged before me this 25 day of Jun, 1997, by Mark Smith, as Director of Finance of Village of Mayfield, on behalf of Village of Mayfield.

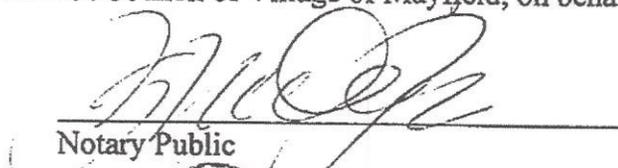


Notary Public
 J.W. NIEMERT, JR., Attorney-at-Law
Notary Public, State of Ohio
My Commission Expires on _____ Date
Section 147.03 Rev. 10-93

STATE OF OHIO :

COUNTY OF Cuy : SS

The foregoing instrument was acknowledged before me this 25 day of Jun, 1997, by Mark Fidler, as President of Council of Village of Mayfield, on behalf of Village of Mayfield.

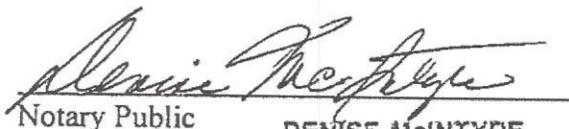


Notary Public
8  J.W. NIEMERT, JR., Attorney-at-Law
Notary Public, State of Ohio
My Commission Expires on _____ Date
Section 147.03 Rev. 10-93

TENANT

STATE OF OHIO :
SS
COUNTY OF CUYAHOGA :

The foregoing instrument was acknowledged before me this 17th day of February, 1997, by Kevin S. Philip, as Director, System Development of AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc. a Delaware Corporation d/b/a AT&T Wireless Services, on behalf of the corporation.



Notary Public

DENISE MCINTYRE
NOTARY PUBLIC STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires June 8, 1999

This Instrument Prepared By:

AT&T Wireless Services
25000 Great Northern Corporate Center 1- Suite 444
North Olmsted, OH 44070
(216) 716-3550

EXHIBIT A LEGAL DESCRIPTION

to the Option and Tower Lease Agreement dated Feb 11, 1997 between Village of Mayfield, as Landlord and AT&T Wireless PCS, Inc. by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services as Tenant, which Property is legally described as follows:

PARCEL 1

Situated in the Village of Mayfield, County of Cuyahoga and State of Ohio; and known as being part of Original Mayfield Township Lot No. 45, Tract 1, and bounded and described as follows: Beginning on the center line of SCK Center Road, 60 feet wide, (said center line being also the Easterly line of said Original Lot No. 45) at its intersection with the Northerly line of land conveyed to George A. Bennett, Jr., by deed dated December 21, 1929, and recorded in Volume 2976, Page 504 of Cuyahoga County Records; thence Northerly along the center line of SCK Center Road, 26.40 feet to a point; thence Westerly and parallel with the Northerly line of land so conveyed to George A. Bennett, Jr., 412.28 feet to the Easterly line of land conveyed to Richard Worts by deed dated June 20, 1983, and recorded in Volume 256, Page 253 of Cuyahoga County Records; thence Southerly along the Easterly line of land so conveyed to Richard Worts, 26.40 feet to the Northwest corner of land conveyed to George A. Bennett, Jr., as aforesaid; thence Easterly along the Northerly line of land so conveyed to George A. Bennett, Jr., 412.28 feet or less, to the place of beginning, be the same more or less, but subject to all legal highways, excepting that parcel of land conveyed to the State of Ohio by deed dated June 30, 1970 and recorded in Volume 12723, Page 551 of Cuyahoga County Records.

PARCEL 2

Situated in the Village of Mayfield, County of Cuyahoga and State of Ohio; and known as being part of Original Mayfield Township Lot No. 45, Tract No. 1, and bounded and described as follows: Beginning on the center line of SCK Center Road, 60 feet wide, at the Northwest corner of land conveyed to Sarah Hayes, by deed dated December 4, 1920, and recorded in Volume 316, Page 292 of Cuyahoga County Records; thence Northerly along said center line of SCK Center Road, 105 60/100 feet; thence Westerly on a line parallel to the Northerly line of land so conveyed to Sarah Hayes, 412 28/100 feet to the Easterly line of land conveyed to Richard Worts by deed dated June 20, 1983, and recorded in Volume 256, Page 253 of Cuyahoga County Records; thence Southerly along said Easterly line of land so conveyed to Richard Worts, 105 60/100 feet to the Northwest corner of land conveyed to Sarah Hayes, as aforesaid; thence Easterly along the Northerly line of land so conveyed to Sarah Hayes, 412 28/100 feet to the place of beginning, according to a survey made by National Survey Service, Inc., dated November 4, 1929, be the same more or less, but subject to all legal highways, excepting that parcel of land conveyed to the State of Ohio, by deed dated June 30, 1970, and recorded in Volume 12720, Page 551 of Cuyahoga County Records.

EXHIBIT B

to the Option and Tower Lease Agreement dated Feb. 11, 1997 between Village of Mayfield, as Landlord and AT&T Wireless PCS, Inc. by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services as Tenant

The location of the premises within the Property is more particularly described or depicted as follows:

SEE ATTACHED PAGE

(Land survey to be provided to Landlord upon completion and to be fully incorporated herein).

EXHIBIT C
ENVIRONMENTAL LAWS

to the Option and Tower Lease Agreement dated Feb. 11, 1997 between Village of Mayfield, as Landlord, and AT&T Wireless PCS, Inc. by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services as Tenant.

As used in this Agreement, "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permit pertaining to the protection of human health and/or the environment, including but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., the Clean Air Act, 42 U.S.C. section 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. section 1101 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq., the Toxic Substances Control Act, 15 U.S.C section 2601 et seq., the Oil Pollution Control Act, 33 U.S.C. and Ohio or any other comparable local, state, or federal statute or ordinance pertaining to the environment or natural resources and all regulations pertaining thereto. This definition includes all federal, state and local land use laws dealing with environmental sensitivity, including, but not limited to, laws regarding wetlands, steep slopes, aquifers, critical or sensitive areas, shore lines, fish and wildlife habitats or historical or archeological significance.

As used in this Sublease, "Hazardous Substance" means any hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended from time to time; any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976 as amended from time to time; any and all material or substance defined as hazardous pursuant to any federal, state or local laws or regulations or order and any substance which is or becomes regulated by any federal, state or local governmental authority; any oil, petroleum products and their by-products.

211
AP

EXHIBIT D

to the Option and Tower Lease Agreement dated Feb. 11, 1997 between Village of Mayfield, as Landlord, and AT&T Wireless PCS, Inc. by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services as Tenant

The following is a list of liens and mortgages currently on the Property:

A title report will replace Exhibit "D."

Handwritten signature and initials in the bottom right corner of the page.

MEMORANDUM OF OPTION TO LEASE (SITE)

THIS MEMORANDUM OF OPTION TO LEASE is made and entered into as of this 28 day of August, 1997, between Village of Mayfield, an Ohio municipal corporation, ("Landlord") with offices at 6621 Wilson Mills Road, Mayfield Village, OH 44143 and AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc. a Delaware Corporation d/b/a AT&T Wireless Services, ("Tenant") with offices at 25000 Great Northern Corporate Center I, Suite 444, N. Olmsted, OH 44070.

Subject to the terms and conditions contained in that certain Option and Tower Lease Agreement dated February 28, 1997, Landlord granted to Tenant an option to lease a portion (as drawn in the attached Exhibit B) of the real property described in the attached Exhibit A (the "Option"). The terms and conditions set forth in the unrecorded Option and Tower Lease Agreement are hereby made a part hereof. The Option shall be for an initial term of 12 months and may be extended for an additional 12 months on notification to Landlord by Tenant and upon payment of additional consideration.

IN WITNESS WHEREOF, this Memorandum of Option to Lease is executed as of the date first herein above written.

Signed and acknowledged in the presence of:

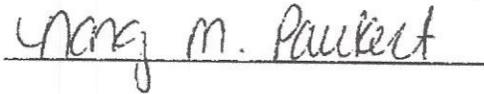
LANDLORD:

Village of Mayfield, an Ohio municipal corporation

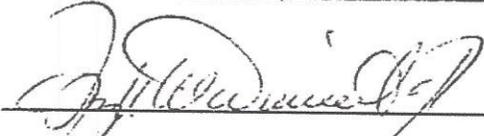


By: Bruce G. Rinker
Its: Mayor

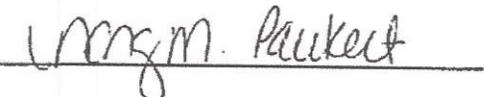
Print Name: Bruce G. Rinker



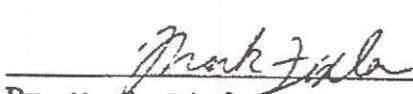
Print Name: Nancy M. Pauckert



Print Name: Bruce G. Rinker



Print Name: Nancy M. Pauckert


By: Mark Fixler
Its: President of Council

[Signature]
Print Name: JUDICHERT JR

[Signature]
Print Name: Nancy M. Paukert

Print Name: Nancy M. Paukert

Approved as to Legal Form:

[Signature]
Joseph W. Diemert, Jr.
Director of Law

[Signature]
By: Philip M. Brett
Its: Director of Finance

TENANT:

AT&T Wireless PCS Inc., by and through
its agent Wireless PCS, Inc., a Delaware
Corporation d/b/a AT&T Wireless Services

[Signature]
Print Name: STACEY LAMBERT

[Signature]

Print Name: GENISE MCINTYRE

[Signature]
By: KEVIN S. PHILIP
Its: DIRECTOR, SYSTEM DEVELOPMENT

LANDLORD

STATE OF OHIO :
SS

COUNTY OF Cuyahoga :

The foregoing instrument was acknowledged before me this 28 day of June, 1997,
by BRUCE WINKER, as Mayor of Village of Mayfield, on behalf of Village of
Mayfield.

[Signature]
Notary Public



J.W. DIEMERT, JR., Attorney-at-Law
Notary Public, State of Ohio
My Commission Expires 10/1/98
Seal No. 14743 Rev. 1-1-93

STATE OF OHIO :
: SS

COUNTY OF Cuy :

The foregoing instrument was acknowledged before me this 28 day of Jan, 1997, by Phil Ault, as Director of Finance of Village of Mayfield, on behalf of Village of Mayfield.

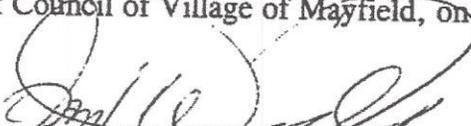


Notary Public

STATE OF OHIO :
: SS

COUNTY OF Cuy :

The foregoing instrument was acknowledged before me this 28 day of Jan, 1997, by Mark Fisher, as President of Council of Village of Mayfield, on behalf of Village of Mayfield.



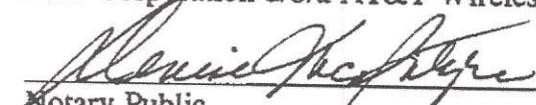
Notary Public

TENANT

STATE OF OHIO :
: SS

COUNTY OF CUYAHOGA:

The foregoing instrument was acknowledged before me this 17th day of February, 1997, by Kevin S. Philip as Director, System Development of Wireless PCS, Inc., by and through its agent Wireless PCS, Inc. a Delaware Corporation d/b/a AT&T Wireless Services, on behalf of the corporation.



Notary Public

DENISE MCINTYRE
NOTARY PUBLIC STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires June 8, 1999

This Instrument Prepared By:
AT&T Wireless Services
25000 Great Northern Corporate Center I
Suite 444
North Olmsted, OH 44070
(216) 716-3550

EXHIBIT A LEGAL DESCRIPTION

Jan 28

Pursuant to a Option and Tower Lease Agreement dated ~~Feb 4~~, 1997 AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services, Tenant, is leasing from Village of Mayfield, Landlord, which Property is legally described as follows:

PARCEL 1

Situated in the Village of Mayfield, County of Cuyahoga and State of Ohio; and known as being part of Original Mayfield Township Lot No. 45, Tract 1, and bounded and described as follows: Beginning on the center line of SQ: Center Road, 66 feet wide, (said center line being also the Easterly line of said Original Lot No. 45) at its intersection with the Northerly line of land conveyed to George A. Bennett, Jr., by deed dated December 21, 1929, and recorded in Volume 2976, Page 504 of Cuyahoga County Records; thence Northerly along the center line of SQ: Center Road, 26.40 feet to a point; thence Westerly and parallel with the Northerly line of land so conveyed to George A. Bennett, Jr., 412.20 feet to the Easterly line of land conveyed to Richard Worts by deed dated June 20, 1883, and recorded in Volume 256, Page 253 of Cuyahoga County Records; thence Southerly along the Easterly line of land so conveyed to Richard Worts, 26.40 feet to the Northwest corner of land conveyed to George A. Bennett, Jr., as aforesaid; thence Easterly along the Northerly line of land so conveyed to George A. Bennett, Jr., 412.20 feet or less, to the place of beginning, be the same more or less, but subject to all legal highways, excepting that parcel of land conveyed to the State of Ohio by deed dated June 30, 1970 and recorded in Volume 12720, Page 551 of Cuyahoga County Records.

PARCEL 2

Situated in the Village of Mayfield, County of Cuyahoga and State of Ohio; and known as being part of Original Mayfield Township Lot No. 45, Tract No. 1, and bounded and described as follows: Beginning on the center line of SQ: Center Road, 66 feet wide, at the Northeast corner of land conveyed to Sarah Hayes, by deed dated December 4, 1920, and recorded in Volume 316, Page 252 of Cuyahoga County Records; thence Northerly along said center line of SQ: Center Road, 105 66/100 feet; thence Westerly on a line parallel to the Northerly line of land so conveyed to Sarah Hayes, 412 20/100 feet to the Easterly line of land conveyed to Richard Worts by deed dated June 20, 1882, and recorded in Volume 256, Page 253 of Cuyahoga County Records; thence Southerly along said Easterly line of land so conveyed to Richard Worts, 105 66/100 feet to the Northwest corner of land conveyed to Sarah Hayes, as aforesaid; thence Easterly along the Northerly line of land so conveyed to Sarah Hayes, 412 20/100 feet to the place of beginning, according to a survey made by National Survey Service, Inc., dated November 4, 1929, be the same more or less, but subject to all legal highways, excepting that parcel of land conveyed to the State of Ohio, by deed dated June 30, 1970, and recorded in Volume 12720, Page 551 of Cuyahoga County Records.



EXHIBIT B

Jan 28

to a Option and Tower Lease Agreement dated 2/11, 1997 between Village of Mayfield as Landlord, and AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc., a Delaware Corporation d/b/a AT&T Wireless Services, as Tenant.

The location of the premises within the Property is more particularly described or depicted as follows:

SEE ATTACHED PAGE