

RESOLUTION #21- 295

**ADDENDUM #2 TO THE OPTION AND LICENSE AGREEMENT BETWEEN NEW  
CINGULAR WIRELESS PCS, LLC AND THE CITY OF TRENTON  
(BID 2019-67)**

THIS AGREEMENT made this 24 day of June, 2021, by and between the CITY OF TRENTON, a municipal corporation of the State of New Jersey, with principal offices located at 319 EAST STATE STREET, TRENTON, NEW JERSEY 08608 (hereinafter the "City") and NEW CINGULAR WIRELESS PCS, LLC, (AT&T), 200 NORTH WARNER ROAD, KING OF PRUSSIA, PA. 19406 (hereinafter "AT&T").

WHEREAS, pursuant to Resolution 19-599 adopted November 14, 2019, the City and AT&T entered into a contract for AT&T to lease space to construct a wireless telecommunications tower on the City-owned East Lagoon Property (the "Agreement"). The Agreement provided in part that AT&T would have 180 days within which to complete its due diligence and obtain the necessary regulatory approvals (the "Option Period"); and

WHEREAS, Resolution No. 20-498 dated September 3, 2020 granted AT&T up to two (2) one hundred and eighty (180) day extensions of the Option Period in order to complete its inspections and approvals due to delays caused by the COVID-19 pandemic; and

WHEREAS, AT&T received the necessary approvals from the Trenton Planning Board on January 28, 2021; but those approvals have been challenged in a lawsuit filed March 9, 2021 in the Superior Court of Mercer County, captioned SBA Towers II, LLC v. City of Trenton Planning Board and New Cingular Wireless PCS, LLC dba AT&T Mobility, Docket No. MER-L-000497-21 (the "Lawsuit"); and

WHEREAS, Licensee is unable to proceed with development of the proposed wireless tower until the Lawsuit has been successfully resolved and the time period for further appeals has expired; and

WHEREAS, Licensor has determined that it would be unfair and inequitable under the circumstances to hold Licensee to the time periods set forth in the Agreement, including the Option Period; and that the running of those time periods should be suspended until the Lawsuit has been resolved;

**NOW THEREFORE**, the Parties mutually agree that:

1. The Agreement is hereby amended to provide that all time periods set forth in the Agreement, including the Option Period, shall be deemed suspended as of March 9, 2021 and shall remain suspended until the entry of a final and non-appealable judgment ending the Lawsuit.
2. Except as and to the extent modified by this Addendum No. 2, the Agreement and Addendum No. 1 to the Agreement remain unmodified and in full force and effect.

ATTEST:

  
MATTHEW H. CONLON, RMC  
MUNICIPAL CLERK

CITY OF TRENTON

  
HONORABLE W. REED BUSCIORA, ESQ.

Witness:

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

By: AT&T Mobility Corporation

Its: Manager

Date

By:

Name: Christopher J. Gehlhaus

Title: Sr. Real Estate & Construction Manager

Date: \_\_\_\_\_

CLAC 6374780.1

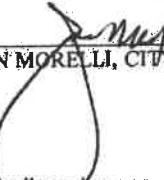
# RESOLUTION

19-599

No. \_\_\_\_\_

Date of Adoption NOV 14 2019

Approved as to Form and Legality

  
JOHN MORELLI, CITY ATTORNEY

Factual content certified by

  
STEVEN PICCO, EXECUTIVE DIRECTOR, WATER&SEWER

Councilman/woman \_\_\_\_\_

presents the following Resolution:

**RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC (AT&T), 200 NORTH WARNER ROAD, KING OF PRUSSIA, PA 19406 FOR LEASE SPACE FOR CONSTRUCTION OF A MONOPOLE ANTENNA ON THE EAST LAGOON PROPERTY, BIDDER WILL PAY THE CITY OF TRENTON \$156,121.20 BID2019-67**

WHEREAS, two (2) sealed bids were received on October 9, 2019, for Lease Space for Construction of a Monopole Antenna on the East Lagoon Property for a period of five (5) years with additional five (5) years renewals if both parties agree to the terms of the renewal for the City of Trenton, Department of Water and Sewer; and

WHEREAS, the low bidder, New Cingular Wireless PCS, LLC (AT&T), 200 North Warner Road, King of Prussia, PA 19406 made pursuant to advertisement, be and is hereby accepted, as the responsive, responsible bidder complying with terms and specifications on file in the Division of Purchasing; and

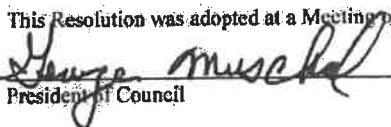
WHEREAS, New Cingular Wireless PCS, LLC (AT&T) will pay the City of Trenton \$30,000.00 for the first (1) year. There shall be an annual increase in rent of two percent (2%) for each year of the initial term which is a five (5) year term and any subsequent renewal terms if both parties agree to the terms of renewal. New Cingular Wireless PCS, LLC (AT&T) has an option to renew for two (2) additional consecutive five (5) year terms; under the same terms and conditions as the original lease.

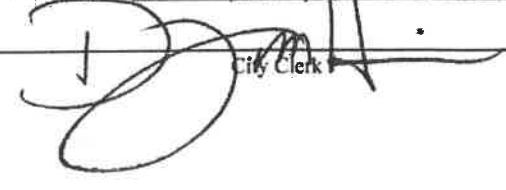
NOW, THEREFORE, IT IS RESOLVED, by the City Council of the City of Trenton that the Mayor is hereby authorized to execute a contract with New Cingular Wireless PCS, LLC (AT&T), 200 North Warner Road, King of Prussia, PA 19406 for Lease Space for Construction of a Monopole Antenna on the East Lagoon Property for a period of five (5) years with additional five (5) years renewals if both parties agree to the terms of the renewal for the City of Trenton, Department of Water and Sewer for the said purposes in the manner prescribed by law.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
BLAKELEY	✓				MUSCHAL	✓				MCBRIDE				✓
CALDWELL WILSON				✓	RODRIGUEZ		✓							
HARRISON	✓				VAUGHN	✓								

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on

NOV 14 2019

  
President of Council

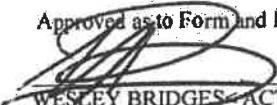
  
City Clerk

# RESOLUTION

21-295

No. \_\_\_\_\_

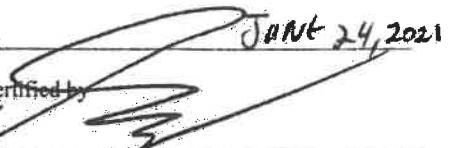
Approved as to Form and Legality

  
WESLEY BRIDGES, ACTING DIRECTOR OF LAW

Councilman /woman \_\_\_\_\_

  
HAARISON

Date of Adoption \_\_\_\_\_

  
JUN 24, 2021

Factual content certified by

  
MARK LAVENBERG, DIRECTOR OF WATER & SEWER

presents the following Resolution:

## **A RESOLUTION AUTHORIZING THE EXECUTION OF ADDENDUM NO. 2 TO "OPTION AND LICENSE AGREEMENT" BETWEEN "LICENSOR" CITY OF TRENTON SEWER UTILITY AND "LICENSEE" NEW CINGULAR WIRELESS PCS, LLC**

**WHEREAS**, Licensor and Licensee are parties to a certain February 7, 2020 Option and License Agreement (the "Agreement"), pursuant to which Licensee proposes to develop wireless telecommunications facilities on a portion of the property owned by Licensor at 1502-1508 Lamberton Road, Trenton, New Jersey; and

**WHEREAS**, the Agreement provides in part that Licensee may conduct such tests and inspections as Licensee deems reasonably necessary to determine the suitability of the site for the proposed development, and secure any required approvals, within the 180-day period commencing on the date of the Agreement (the "Option Period"); and

**WHEREAS**, on March 9, 2020, the New Jersey Governor issued Executive Order No. 103, which declared a Public Health Emergency and State of Emergency throughout the State, as a result of the COVID-19 coronavirus pandemic; and extended those emergency declarations in a series of Executive Orders through Executive Order No 240 on May 14, 2021; and

**WHEREAS**, because the ongoing pandemic prevented Licensee from obtaining all necessary approvals during the initial Option Period, Licensor in September 2020 adopted Resolution 20-498 granting Licensee two 180-day extensions to the Option Period, which the Parties memorialized in Addendum No. 1 to the Agreement; and

**WHEREAS**, during the extended Option Period, on January 28, 2021, the Licensee received the necessary development approval from the Trenton Planning Board, but that the approval has been legally challenged by a third-party objector in a complaint filed March 9, 2021 with the Superior Court Law Division in Mercer County (SBA Towers II, LLC v. City of Trenton Planning Board and New Cingular Wireless PCS dba AT&T Mobility Docket No. MER-L-000497-21; the "Lawsuit"); and

**WHEREAS**, Licensee and the Trenton Planning Board are named defendants in the Lawsuit and intend to fully defend the Planning Board's approval; and

**WHEREAS**, Licensee cannot proceed with construction of the approved wireless telecommunication tower until the Lawsuit, and any subsequent appeals have been resolved; and

**WHEREAS**, Licensor has determined that it is fair and equitable to suspend the running of any time periods under the Agreement including the Option Period, until the Lawsuit has been resolved.

# RESOLUTION

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Trenton, in consideration of the foregoing recitals and the mutual promises set forth herein, the Parties agree as follows:

1. Licensor is hereby authorized to execute the attached Addendum No. 2 to the Option and License Agreement, suspending the running of all time periods including the Option Period during the Lawsuit. The Option Period will begin to run again upon the entry of a final and non-appealable judgement ending the Lawsuit; in
2. All other terms and provisions of the Option and License Agreement remain in full force and effect, except to the extent modified by Addendums 1 and 2.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
BLAKELEY	/				MUSCHAL	/				MCBRIDE	/			
CALDWELL, WILSON	/				RODRIGUEZ	/								
HARRISON	/				VAUGHN		/							

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on

JUNE 24, 2021

Kathy McBride

President of Council

2

M. L.

City Clerk

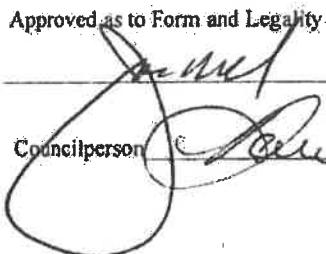
# RESOLUTION

20-381

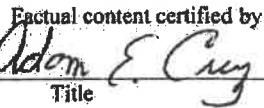
No. \_\_\_\_\_

Date of Adoption September 17, 2020

Approved as to Form and Legality

  
James E. City  
City Attorney

Councilperson

Factual content certified by  
  
Adam E. City  
Title

presents the following Resolution:

**RESOLUTION TO APPROVE A TEN YEAR LICENSE  
AGREEMENT BETWEEN THE CITY OF TRENTON AND NEW  
CINGULAR WIRELESS PCS, LLC FOR THE USE OF CITY  
INFRASTRUCTURE AND RIGHT-OF-WAY TO PROVIDE 5G  
WIRELESS SERVICE**

WHEREAS, the City of Trenton desires to have 5G wireless internet options available in its community, including service provided by New Cingular Wireless PCS, LLC ("New Cingular");

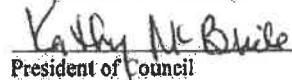
WHEREAS, for New Cingular to provide 5G wireless service it must install various equipment throughout the City in the rights of way;

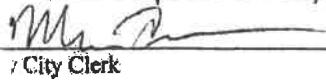
WHEREAS, New Cingular will compensate the City for allowing it to use its infrastructure and right of way in order to set up its 5G wireless service;

NOW THEREFORE BE IT RESLOVED, that the Trenton City Council hereby authorizes the Mayor to enter into such License Agreement in the form attached hereto on behalf of the City.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
BLAKELEY	✓				MUSCHAL	✓				McBRIDE	✓			
CALDWELL WILSON	✓				RODRIGUEZ	✓								
HARRISON	✓				VAUGHN	✓								

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on September 17, 2020

  
Kathy McBride  
President of Council

  
Mr. B  
City Clerk

# RESOLUTION

No. 20-498

SEP 03 2020

Approved as to Form and Legality

Date of Adoption

CITY ATTORNEY

Factual content certified by

Councilman /woman

Mark Lavenberg  
Acting Director of Water and Sewer

presents the following Resolution:

## ADDENDUM NO. 1 TO "OPTION AND LICENSE AGREEMENT" BETWEEN "LICENSOR" CITY OF TRENTON SEWER UTILITY AND "LICENSEE" NEW CINGULAR WIRELESS PCS, LLC

WHEREAS, Licensor and Licensee are parties to a certain February 7, 2020 Option and License Agreement (the "Agreement"), pursuant to which Licensee proposes to develop wireless telecommunications facilities on a portion of the property owned by Licensor at 1502-1508 Lambert Street, Trenton, New Jersey; and

WHEREAS, the Agreement provides in part that Licensee may conduct such tests and inspections as Licensee deems reasonably necessary to determine the suitability of the site for the proposed development, within the 180-day period commencing on the date of the Agreement (the "Option Period"); and

WHEREAS, on March 9, 2020, the New Jersey Governor issued Executive Order No. 103, which declared a Public Health Emergency and State of Emergency throughout the State, as a result of the COVID-19 coronavirus pandemic; and extended those emergency Declarations through Executive Order No. 119 on April 7, 2020, Executive Order No. 138 on May 6, 2020, Executive Order No. 151 on June 4, 2020 and Executive Order No. 162 on July 2, 2020; and

WHEREAS, in response to the pandemic and the Governor's Executive Orders and Directives, many businesses and government offices have been shut down for periods of time, and many have operated and continue to operate with significantly-reduced staffing and hours; and

WHEREAS, as a result, Licensee has been greatly slowed or prevented from conducting the necessary site inspections, and from obtaining necessary governmental reviews and approvals, within the Option Period; and

WHEREAS, Licensee has requested an extension of the Option Period in order to complete its inspections and approvals, and Licensor is willing to grant the requested extension on the same terms applicable to the initial Option Period.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Trenton, in consideration of the foregoing recitals and the mutual promises set forth herein, the Parties agree as follows:

1. Licensor shall be entitled to up to two 180-day extensions of the Option Period. Licensee shall request each extension in writing prior to the expiration of the then-current Option Period, and shall pay Licensor a non-refundable \$4,000 Option Payment for each extension.
2. All other terms and provisions of the Agreement remain in full force and effect, except to the extent modified by this Addendum No. 1.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
BLAKELEY	✓				MUSCHAL	✓				MCBRIDE	✓			
CALDWELL WILSON	✓				RODRIGUEZ	✓								
HARRISON	✓				VAUGHN	✓								

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on

SEP 03 2020

President of Council

City Clerk

RESOLUTION # 20-498

ADDENDUM #1 FOR THE OPTION AND LICENSE AGREEMENT BETWEEN NEW CINGULAR WIRELESS PCS, LLC  
AND THE CITY OF TRENTON, DEPARTMENT OF WATER AND SEWER  
BID2019-67

THE AGREEMENT made this \_\_ day of JANUARY 2021, by and between the CITY OF TRENTON, a municipal corporation of the State of New Jersey, with principal offices located at 319 EAST STATE STREET, TRENTON, NEW JERSEY 08608 (hereinafter the "City") and NEW CINGULAR WIRELESS PCS, LLC, (AT&T), 200 NORTH WARNER ROAD, KING OF PRUSSIA, PA 19406.

WHEREAS, Resolution 19-599 awarded a contract on November 14, 2019, to New Cingular Wireless PCS, LLC, (AT&T), 200 North Warner Road, King of Prussia, PA 19406 to Lease Space for Construction of a Monopole Antenna on the East Lagoon Property, with payment to the City of Trenton in an amount not to exceed \$156,121.20; and

WHEREAS, Resolution No. #20-498 dated September 3, 2020 authorized Addendum No. #1 to the Contract, entitling New Cingular Wireless PCS, LLC (AT&T) to up to two (2) one hundred and eighty (180) day extensions of the option period in order to complete its inspections and approvals due to the COVID-19 pandemic;

NOW THEREFORE, the parties mutually agree as follows:

1. New Cingular Wireless PCS, LLC shall be entitled to up to two (2) one hundred and eighty (180) day extensions of the Option Period. The changes will not alter the contract in such a manner as to nullify the effect of the competitive determination of lowest responsible bidder which was made at the time of the contract award; and
2. The Mayor executes this Addendum No. #1 with New Cingular Wireless PCS, LLC (AT&T), for said purposes in the manner prescribed by law. New Cingular Wireless PCS, LLC (AT&T) shall pay the City a non-refundable \$4,000.00 option payment for each extension.

IN WITNESS WHEREOF, the parties have hereunto set their bands and seals the day and year first above written.

[SIGNATURE PAGE FOLLOWS]

ATTEST:

  
\_\_\_\_\_  
MATTHEW H. CONLON, RMC  
MUNICIPAL CLERK

CITY OF TRENTON

  
\_\_\_\_\_  
HONORABLE W. REED GUSCIORA, ESQ.

Witness:

01/22/2021

DATE

New Cingular Wireless PCS, LLC, a Delaware  
limited liability company  
By: AT&T Mobility Corporation  
Its: Manager

By: CJ Gehlhaus  
Name: Christopher J. Gehlhaus  
Title: Sr. Real Estate & Construction Manager  
Date: 1/13/2021