R-16-183

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A TEMPORARY SITE LICENSE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC; AND FOR OTHER PURPOSES.

WHEREAS, New Cingular Wireless PCS, LLC ("New Cingular"), has requested temporary use of vacant city-owned property to install, operate and maintain temporary communications transmitting and receiving equipment (including antennas, poles, masts, transmission lines, vehicles and accessories) for use during the annual Riverfest celebration which will run June 1-4, 2017; and

WHEREAS, the riverfront location of the site is not currently being used by the City, and it is in the best interests of the City that a Temporary Site License be granted to New Cingular Wireless PCS in order to facilitate communications during Riverfest 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor is hereby authorized to execute a Temporary Site License agreement (being substantially similar to Exhibit "A" attached hereto) with New Cingular Wireless PCS, LLC for the temporary use of property located at the northeast corner of Poplar Street and Riverfront Drive, said temporary use to be for the purpose of installing, operating and maintaining temporary communications transmitting and receiving equipment.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

_____

APPROVED:

_____
Mayor Joe A. Smith

SPONSOR:

Joe A. Smith
Mayor Joe A. Smith

ATTEST:

_____
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter
C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED 11:45 A.M. _____ P.M.
By Atty Carter
DATE 11-22-14

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY S. Ussery

EXHIBIT
"A"

Site Name: RVRFST17
Site No: AR COW # 6 (LR PUP), TOW
City of NLR

TEMPORARY SITE LICENSE

LICENSOR:	City of North Little Rock 300 Main Street North Little Rock, AR 72114
LICENSEE:	**New Cingular Wireless PCS, LLC and its affiliates**
TERM:	April 26, 2017 through June 9, 2017 as may be extended pursuant to this License.
LICENSE FEE:	$1,000.00 per week (prorated for any partial week)
COMMENCEMENT DATE:	April 26, 2017
LICENSED SITE:	Argenta Subdivision, Lot 11, Block 9 **North Little Rock, AR 72114**

1. License of Site. During the Term hereof, Licensor hereby licenses a certain portion of Licensor's property (the "**Property**") at the Licensed Site and grants to Licensee the right to install, operate and maintain at Licensee's expense and risk, temporary communications transmitting and receiving equipment, including (without limitation) antennas, poles, masts, transmission line(s), vehicles and accessories (collectively, the "**Equipment**") at the Licensed Site. Licensee shall at all times have the unrestricted right to enter or leave the Licensed Site with full and complete access to its Equipment on a 24-hour, seven (7) day per week basis. At its discretion, Licensee may take at its expense measures and precautions necessary to protect the Equipment. The equipment will be located in the area shown on Exhibit "A"

2. License Fee. Within forty (45) days after the date of this License, Licensee shall pay Licensor the License Fee for five weeks of Five Thousand and No/100 Dollars ($5,000.00).

3. Extension of Term. At the sole discretion of Licensee, Licensee may extend the Term for one additional period of seven days upon the same terms and conditions by providing Licensor with written notice prior to the end of the Term. If Licensee remains in possession of the Licensed Site after the expiration of this License, then Licensee will be deemed to be occupying the Licensed Premises on a day-to-day basis.

4. Removal of Equipment and Site Condition. Except as set forth herein, Licensee takes the Licensed Site as it finds it and Licensor shall have no responsibility for its condition or any damage suffered by Licensee or any other person due to such condition. Unless otherwise mutually agreed by the parties, Licensee shall remove all of the Equipment prior to the end of the Term, and any extensions thereof, and shall leave the Licensed Site in substantially the same condition that existed as of the date of this License, ordinary wear and tear and occurrences for which Licensee is not responsible hereunder, excepted.

5. Indemnification; No Consequential or Indirect Damages. Licensee shall indemnify and hold Licensor harmless against any liability or loss from personal injury or property damage resulting from or arising out of the use or occupancy of the Property by Licensee or its employees or agents, provided, however, Licensee

shall have no obligation to indemnify or hold harmless against any such liabilities and losses as may be due to or caused by the acts or omissions of Licensor or its employees or agents. Licensor shall indemnify and hold Licensee harmless against any liability or loss from personal injury or property damage resulting from or arising out of (1) the use or occupancy of the Property by Licensor or its employees or agents or (2) contamination of the Property subsurface or structures with hazardous substances; provided, however, Licensor shall have no obligation to indemnify or hold harmless against any such liabilities and losses as may be due to or caused by the acts or omissions of Licensee or its employees or agents. Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Licensor and Licensee each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

6. Operation of Equipment. Licensee will install, operate and maintain its Equipment in accordance with applicable laws and regulations so as not to cause interference (as that term is defined in the rules and regulations of the Federal Communications Commission), with any radio or television transmitting or receiving equipment whether or not such equipment is located on the Licensed Site. In the event that Licensee's Equipment causes interference with other radio or television transmissions, Licensee will promptly take all reasonable steps necessary to correct and eliminate the same. If Licensee is unable to eliminate the interference within a reasonable period of time, Licensee agrees to remove the Equipment from the Licensed Site and this License shall be terminated.

7. Assignment. Licensee shall have the right to assign this License to any present or future affiliate of Licensee after securing the consent of Licensor which shall not be unreasonably withheld.

8. Electrical Service/Telephone Service. Licensee agrees, at Licensee's sole cost and expense, to pay for the electric service and fees needed for the operation of Licensee's equipment. Licensor agrees to grant the electric utility company any necessary permission, including temporary easement, for the electric line and meter installation, should the electric utility company require written permission or temporary easement.

9. Damage to Licensed Site. If the Licensed Site or any portion thereof is damaged for any reason so as to render the Licensed Site unusable for Licensee's intended purpose, the License Fee shall abate for such period as the Licensed Site is unusable. In addition, Licensee may, at its option, elect to terminate this Agreement.

10. Notices. Any notice or demand required or permitted to be given or made hereunder shall be deemed given when received. Notices may be sent by messenger delivery, overnight delivery, or by certified mail in a sealed envelope, postage prepaid,

addressed in the case of Licensor to:

City of North Little Rock
300 Main Street
North Little Rock, AR 72114
(501) 340-5301
Attn: Danny Bradley, Chief of Staff

and addressed in the case of Licensee, to:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: AR COW # 6 (LR PUP); Cell Site Name: RVRFST14
Fixed Asset No: **10110145**
575 Morosgo Dr. NE
13-F West Tower
Atlanta, GA 30324

With a copy to Licensee's Regional Counsel:

New Cingular Wireless PCS, LLC
Attn.: Legal Department
Re: Cell Site #: AR COW # 6 (LR PUP); Cell Site Name: RVRFST14
Fixed Asset No: **10110145**
208 S. Akard Street
Dallas, Texas, 75202-4206

11. Waiver. Failure or delay on the part of Licensor or Licensee to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.

12. Prior Negotiations. This License constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and shall supersede all prior offers, negotiations and agreements.

13. Amendment. No revision of this contract shall be valid unless made in writing and signed by duly authorized officers or representatives of Licensee and Licensor.

14. Licensor's Representations. Licensor represents and warrants that it owns or otherwise controls the Licensed Site during the Term of this License and that Licensor has full authority to execute and deliver this License.

15. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State in which the Licensed Site is located.

IN WITNESS WHEREOF, the parties have executed this License as of the ___ day of _____, 2016.

LICENSOR:

CITY OF NORTH LITTLE ROCK

By:_____

Name:_____

Title:_____

LICENSEE:

New Cingular Wireless PCS, LLC
By: **AT&T Mobility Corporation**
Its Manager

By:_____

Name: _____

Title:_____

EXHIBIT "A"

A fifty (50) by fifty (50) foot portion of the property shown below owned by the City of North Little Rock: