

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**3/21/2023**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
AT&T Amendment to License Agreement - 4414 Downers Drive	Enza Petrarca Village Attorney

**SYNOPSIS**

A resolution has been prepared authorizing execution a fourth amendment to a license agreement between the Village of Downers Grove and New Cingular Wireless (AT&T) for the operation of antenna on Village property located at 4414 Downers Drive.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2021-2023 include *Steward of Financial, Environmental and Neighborhood Sustainability*.

**FISCAL IMPACT**

As of January 1, 2023, the license fee under the current agreement is \$5,356.00 per month. This proposed amendment will increase monthly rent by an additional \$200.

**RECOMMENDATION**

Approval on the March 21, 2023 consent agenda.

**BACKGROUND**

New Cingular Wireless, PCS, LLC d/b/a/ AT&T is a provider of digital communications in the Chicagoland area. AT&T has operated equipment on the 4414 Downers Drive tower since 2001. The current lease is set to expire December 31, 2046. AT&T contacted the Village to request expansion of the existing use of ground space in order to install a natural gas fueled standby generator. The proposed fourth amendment would result in the Village collecting an additional \$200/month in license fees with a 4% increase in each year thereafter.

**ATTACHMENTS**

Resolution  
Agreement

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING EXECUTION OF A  
FOURTH AMENDMENT TO LICENSE AGREEMENT BETWEEN  
THE VILLAGE OF DOWNERS GROVE AND NEW CINGULAR WIRELESS PCS, LLC  
(4414 DOWNERS DRIVE)**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois as follows:

1. That the form and substance of a certain Fourth Amendment ("Agreement"), between the Village of Downers Grove ("Village") and New Cingular Wireless PCS, LLC f/k/a AT&T ("Licensee") for the maintenance and operation of antenna equipment on Village property located at 4414 Downers Drive, Downers Grove, IL, as set forth in the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provision of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk

#### FOURTH AMENDMENT TO LICENSE AGREEMENT

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This Fourth Amendment to License Agreement ("**Fourth Amendment**") is made as of the date of the last party to sign below, by and between the Village of Downers Grove (hereinafter referred to as "**Village**"), and New Cingular Wireless, PCS, LLC a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd, NE, 3<sup>rd</sup> Floor, Atlanta, GA, (hereinafter referred to as "**Licensee**"). The Village and Licensee are at times collectively referred to hereinafter as the "**Parties**".

WHEREAS, the parties having entered a License Agreement dated November 20, 2001, as adopted by Resolution No. 2001-97 on November 20, 2001, a First Amendment to License Agreement dated May 19, 2006, as adopted by Resolution No. 2006-47 on May 2, 2006, a Second Amendment to License Agreement dated December 20, 2012, as adopted by Resolution No. 2012-95 on December 18, 2012, and a Third Amendment to License Agreement dated March 15, 2022, as adopted by Resolution No. 2022-27 on March 15, 2022 (all collectively the "Agreement") for the installation, maintenance and operation of antenna on Village Property located at 4414 Downers Drive; and

WHEREAS, Licensee desires to expand its current existing ground area space as set forth in Exhibits of the Third Amendment to License Agreement, in order to install a natural gas fueled standby generator; and

WHEREAS, the Parties wish to approve a Fourth Amendment in order to address the above item.

NOW, THEREFORE, in consideration of the promises hereinafter made and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree to the following:

1. The recitals above are true and correct and are incorporated herein.
2. Section 7 of the Third Amendment to License Agreement is hereby amended by adding the following paragraph:

The monthly license fee shall be increased by \$200.00 per month effective as determined by the date this Fourth Amendment is last executed by both Parties ("**Effective Date**"). If the date this Fourth Amendment is last executed occurs on or between the first and fifteenth day of a month, the Effective Date will be the first day of that month. If the date this Fourth Amendment is last executed occurs on or between the sixteenth and the last day of the month, the Effective Date will be the first day of the following month. Rent, including any and all rent increases, will be escalated in accordance with the Agreement. As of January 1, 2023, the current license fee under the Agreement is \$5,356.00 per month.

3. Exhibit 1 to the Agreement is hereby modified and supplemented with the attached Exhibit 1-1 which shows the expanded leased ground area space.
4. Except as amended herein, all terms, conditions, provisions, covenants, and agreements contained in the Agreement are hereby ratified and confirmed in their entirety. In the event of any inconsistencies between the Agreement and this Fourth Amendment, the terms of this Fourth Amendment shall take precedence. The terms used herein and not otherwise defined shall have the same meaning as set forth in the Agreement.
5. All capitalized terms used but not defined in this Fourth Amendment shall have the meaning, if any, set forth elsewhere in the Agreement.

- 6. The Agreement may be further amended or modified only by a written agreement signed by both Parties.
- 7. This Fourth Amendment shall bind and inure to the benefit of the successors and assigns of the Parties hereto, except to the extent any assignment or other transfer may be prohibited, limited or conditioned pursuant to any other term or condition contained in the Agreement.
- 8. This Fourth Amendment may be executed in one or more counterparts, all of which counterparts taken together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Fourth Amendment to be effective as of the last date written below.

**LICENSEE:  
NEW CINGULAR WIRELESS PCS,  
LLC**

**VILLAGE OF DOWNERS GROVE**

By:



By:

\_\_\_\_\_  
Village Manager

Title:

*Andrew T. Flowers*

*Sr Real Estate & Construction Manager*

**ATTEST:**

\_\_\_\_\_  
Village Clerk

Subscribed and sworn to  
this 1 day of March, 2023.

  
\_\_\_\_\_  
Notary Public

I:\mw\Agr.13\AT&T -Downers Drive-4th Amd

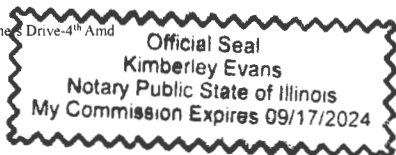
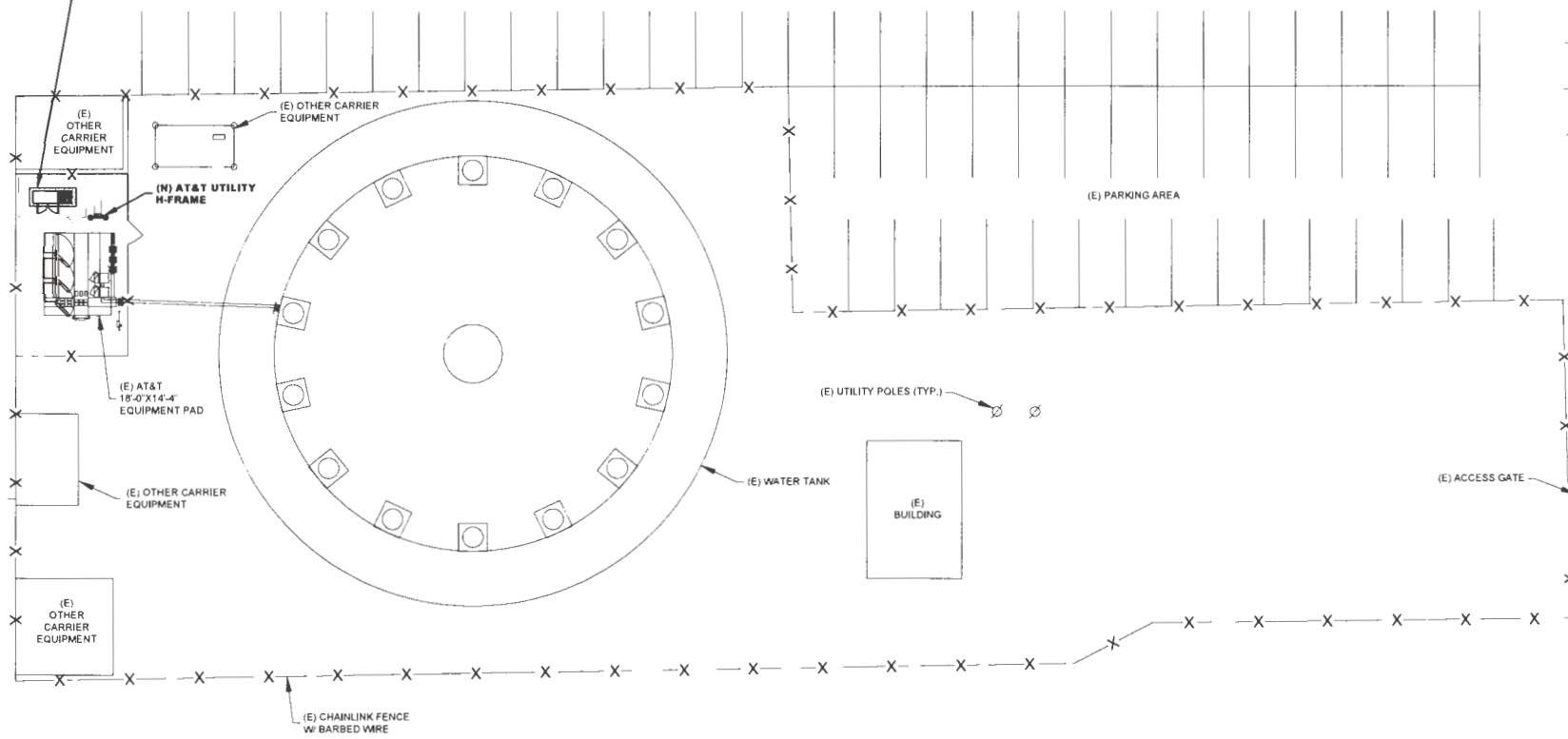


Exhibit 1-1

(Expanded Lease Area Attached)

NOTE  
 THESE DRAWINGS WERE PRODUCED WITHOUT THE BENEFIT OF  
 A CURRENT LAND SURVEY. ALL PROPERTY LINE EASEMENTS,  
 DISTANCES AND EXISTING CONDITIONS ARE APPROXIMATE AND  
 SHALL BE VERIFIED PRIOR TO START OF CONSTRUCTION.

(N) AT&T KOHLER 30REOZK GENERATOR W/ 3'-0" NEC  
 CLEARANCE ON (N) 4'-0"X10'-0" CONCRETE PAD  
 (SEE SHEET A-0 FOR ENLARGED SITE PLAN)



1/10/2023

SUBMITTALS			
DATE	DESCRIPTION	REV	ISSUED BY
1/10/2023	CONSTRUCTION	0	RM

DRAWN BY: AR  
 CHECKED BY: KL  
 APPROVED BY: RM

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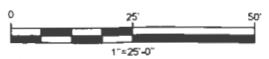
SITE NAME  
**DOWNERS GROVE WATER TANK**

SITE ADDRESS  
 4414 DOWNERS DRIVE  
 DOWNERS GROVE, IL 60515

TOWER OWNER ID  
 N/A

SHEET TITLE  
**OVERALL EQUIPMENT LAYOUT**

SHEET NUMBER  
**C-1**



**OVERALL EQUIPMENT LAYOUT**  
 11"x17" SCALE 1"=25'-0"  
 24"x36" SCALE 1"=12'-6"



**Prepared by and Return to:**

Debra Neuman  
AT&T Mobility  
c/o MasTec Network Solutions  
1351 E. Irving Park Rd.  
Itasca, IL 60143

Re: Cell Site Number: IL1534  
Cell Site Name: Downers Grove Water Tank  
Fixed Asset # 10074786  
State: Illinois  
County: DuPage

**AMENDED  
MEMORANDUM OF AGREEMENT**

This Amended Memorandum of Agreement is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Village of Downers Grove having its principle office at 801 Burlington Avenue, Downers Grove, IL 60515 (hereinafter called "**Village**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE, 3<sup>rd</sup> Floor, Atlanta, GA 30319 ("**Licensee**").

1. Village and Licensee entered into the certain License Agreement ("**Agreement**") on the 20<sup>th</sup> day of November 2001, for the purpose of installing, operating, and maintaining a communication facility and other improvements, as amended. All of the foregoing is set forth in the Agreement.
2. A Memorandum of Agreement was recorded on April 11, 2013, at Other 005 Pages R2013-053483 in the office of the DuPage County Recorder.
3. The initial license term will be five (5) years with the right to renew for additional two (2) additional five (5) year terms unless Licensee notifies Village in writing of Licensee's intention not to renew the Agreement at least One Hundred Twenty (120) days prior to the expiration of the Initial Term or then-existing Extension Term.
4. The portion of the land being licensed to Licensee and associated easements are described in **Exhibit 1** annexed hereto.
5. This Memorandum of Agreement is not intended to amend or modify and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Agreement and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement

**[SIGNATURES AND NOTARY BLOCKS TO FOLLOW]**

**IN WITNESS WHEREOF**, the parties have executed this Memorandum as of the day and year first above written.

**VILLAGE:**


The Village of Downers Grove

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**LICENSEE:**

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

By: AT&T Mobility Corporation  
Its: Manager

By:  \_\_\_\_\_  
Print Name: Andrew T. Flowers  
Its: Sr Real Estate & Construction Manager  
Date: 3/1/23

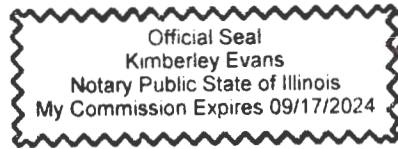
**[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]**



**LICENSEE ACKNOWLEDGMENT**

STATE OF ILLINOIS )  
 ) ss:  
COUNTY OF DuPage )

On the 1 day of March, 2023 before me personally appeared Andrew T. Flowers and acknowledged under oath that he/she is the Sr Real Estate & Construction Manager of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, a Delaware limited liability company the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.



Kimberley Evans  
Notary Public: Kimberley Evans  
My Commission Expires: 9-17-24

**VILLAGE ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, personally appeared \_\_\_\_\_, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Lessor for the purposes therein contained.

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT 1****DESCRIPTION OF PROPERTY AND PREMISES**

Page            of

to the Memorandum of Lease dated \_\_\_\_\_, 20\_\_\_\_, by and between Village of Downers Grove, as **Village**, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as **Licensee**.

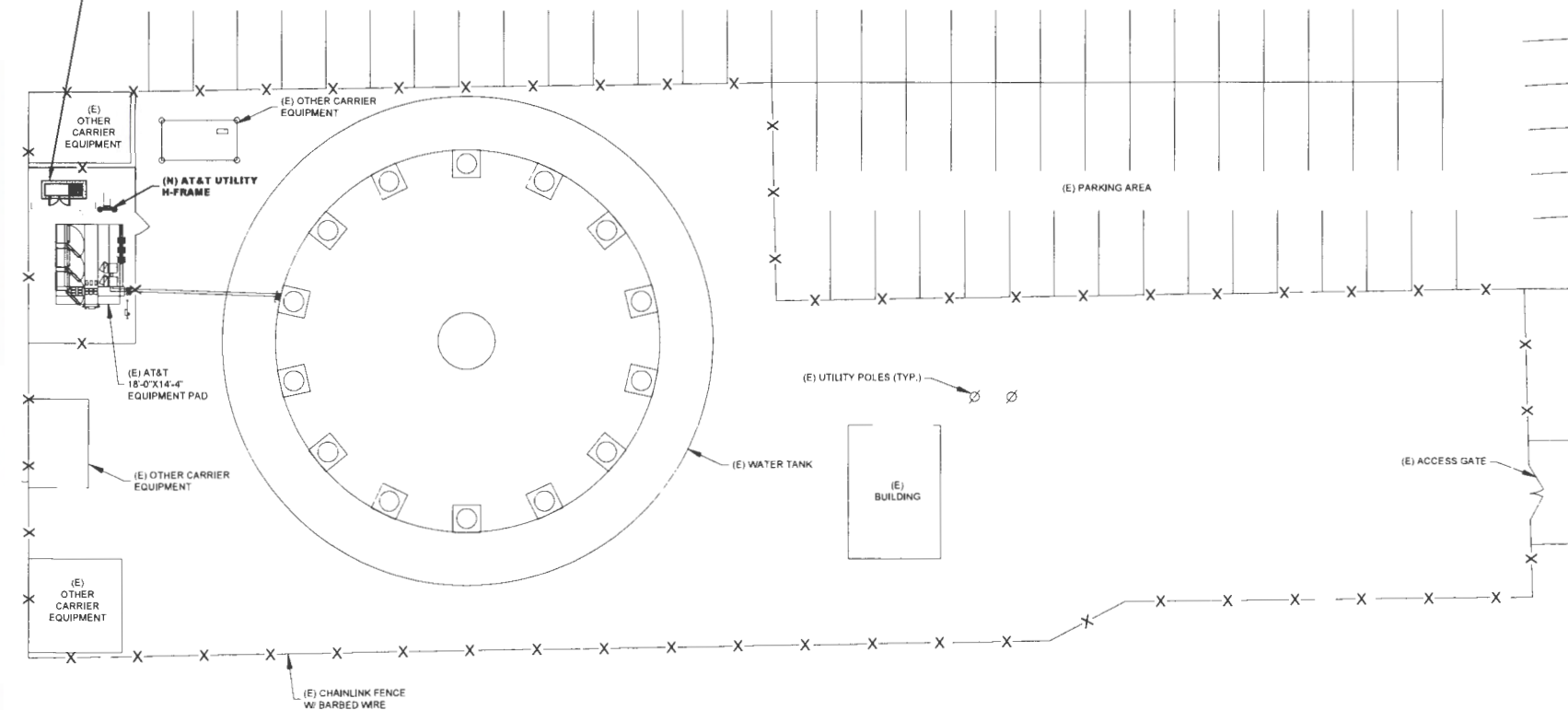
The Property is legally described as follows:

4414 Downers Drive, Downers Grove, IL 60515

The Premises are described and/or depicted as follows:

NOTE  
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(M) AT&T KOHLER 30REOZK GENERATOR W/ 3'-0" NEC CLEARANCE ON (N) 4'-0"X10'-0" CONCRETE PAD (SEE SHEET A-0 FOR ENLARGED SITE PLAN)



1/10/2023

SUBMITTALS			
DATE	DESCRIPTION	REV	ISSUED BY
1/10/2023	CONSTRUCTION	2	RM

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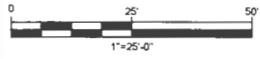
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TOWER OWNER ID  
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SHEET TITLE  
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