

Market- Rocky Mountain Region
 Venue- City of Grand Junction
 Agreement Name- City of Grand Junction inbuilding agreement
 FA 15567467

IN-BUILDING LICENSE AGREEMENT

Licensor	Licensee
City of Grand Junction	New Cingular Wireless PCS, LLC
Licensor Contact (for notices)	Licensee Contact (for notices)
Name: Jennifer Kirkland Title: Director of Mesa County 911 Street Address: 555 Ute Avenue Grand Junction, CO 81501 Mesa County Telephone: (970) 390-1553 Email: jenniferk@gjcity.org And John Shaver City Attorney 250 North 5 th Street Grand Junction, CO 81501	New Cingular Wireless PCS, LLC Attn: Network Real Estate Administration 1025 Lenox Park Blvd NE 3 rd Floor, Atlanta GA 30319 Re: FA Location 15567467 With a copy to: New Cingular Wireless PCS, LLC Attn: Network Counsel 208 S. Akard Street Dallas, Texas, 75202-4206 Re: FA Location 15567467

This In-Building License Agreement ("Agreement"), between the Licensor named above ("Licensor") and the Licensee named above ("Licensee"), for its own benefit and for the benefit of its Affiliates which participate in this Agreement, is effective as of the latter of the signature dates below (the "Effective Date"). Licensee and Licensor are, at times, referred to herein individually as a "Party" and together as the "Parties".

Licensor owns or controls that certain plot, parcel or tract of land, improved with a building (the "Structure"), together with all rights and privileges arising in connection therewith, located at 555 Ute Avenue Grand Junction, CO, in the County of Mesa, State of Colorado (collectively, the "Property"). Licensee desires to use a portion of the Property in connection with its wireless communications business. Licensor desires to grant to Licensee the right to use a portion of the Property in accordance with this Agreement.

1. Definitions.

1.1 "Affiliate" of Licensee means any entity that controls, is controlled by, or is under common control with Licensee.

1.2 "FCC" means the Federal Communications Commission.

1.3 "Frequency" or "Frequencies" means the frequencies for which a Licensee affiliate holds or uses to provide wireless telecommunication services and features.

1.4 "Interference" means undesired RF energy that can degrade the quality of service on frequencies, which may result in distorted conversations, dropped calls, and blocked calls for Licensee affiliates or other carriers.

1.5 "LAN" means Local-Area-Network, a system that has networking equipment and/or computers in close proximity to each other capable of communicating, sharing resources and information.

1.6 "Modifications" means any modifications, enhancements, expansions, upgrades or equipment replacement, adjustments, shut-downs, disablements, or other changes to a System or any component thereof.

1.7 "Network" means the Licensee infrastructure that is used to provide wireless radio telecommunications services on the Frequencies.

1.8 "Premises" means the physical location(s) identified in Exhibit A, which is attached hereto and incorporated herein by reference (collectively, "Exhibit A").

1.9 "RF" means radio frequency.

1.10 "System" means a customized in-building wireless radio telecommunications system comprised of any related transmission facilities and any related equipment and cabling that will be installed for use on the Premises, to enable enhanced RF coverage from the Network.

1.11 "Transport" means the public telecommunications infrastructure which permits telecommunications between and among defined Network termination points.

1.12 "WAN" means Wide Area Network, a private or public network service generally provided by a phone company connecting LAN's across diverse geographic regions.

2. System and Premises.

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2.1 Identification. The Parties acknowledge and agree that Licensee may make substantial Modifications and/or add additional Systems to the existing Premises, or add new Premises in the future, by a mutually agreed upon amendment to this Agreement. The amendment, if any, must be completed in advance of any modifications. Notwithstanding the above, Licensee shall be able to operate, upgrade, maintain, repair and replace its equipment without an amendment so long as it occurs in the existing area. Unless otherwise set forth in Exhibit A, all terms and conditions of this Agreement apply to the Systems and Premises. Exhibit A may be replaced upon initating by both parties of the new Exhibit A.

2.2 Installation. Licensee will install the System on the Premises materially in accordance with the System designs as set forth in Exhibit A. Any jurisdictional land use or building and safety permits that may be required for the installation, maintenance, repair, replacement, removal and/or operation of a System will be Licensee's sole responsibility. Licensee shall obtain and comply with all required permits.

2.3 Maintenance. Subject to the terms and conditions specified herein, Licensee will maintain the System on the Premises at Licensee's expense. Licensor is obligated to maintain any Licensor-owned cabling and distribution systems to which the System is connected.

2.4 Modification and Capacity. Licensor understands and agrees that the System impacts Network capacity and performance, and that, due to the nature of RF, the System may not provide coverage for the entire Premises. Licensor also understands and agrees that from time to time Licensee may, in its sole discretion and without prior approval from Licensor, make minor Modifications to the System and Network. Any Licensor-proposed Modifications to a System are subject to Licensee's prior written approval, and, if approved, will be implemented by Licensee at Licensor's sole expense.

2.5 Ownership. FCC regulations require Licensee to maintain sole control over any transmitting device that operates within Licensee's assigned Frequencies. The Parties agree that: (a) Licensor does not have, and will not acquire through this Agreement any proprietary or ownership rights or interest in the System, the Network, or related components. The System, and all corresponding components, are and will remain the property of Licensee, and Licensee will have the right to install, operate, maintain and remove the System in its sole discretion at Licensee's expense. Licensee has no proprietary or ownership rights in the Premises or Licensor's facilities, including Licensor-owned cabling and distribution systems if used as part of a System installation.

2.6 Connectivity. Licensor understands and agrees that the System requires connectivity to the Network via compatible IP network or other compatible broadband service ("Transport"). Licensor will fully cooperate with any Transport provider requesting an easement over, under and across the Property, in a reasonable location, in order to provide service to Licensee as Licensee may require to operate the System. Licensee shall be responsible for ordering services which Licensee may require from time to time for the use and operation of a System, and maintaining such services during the Term at Licensee's sole expense. By specific agreement between Licensor and Licensee, Licensee shall be responsible for the cost of bringing Transport from the main point of termination on the Property to the corresponding Premises.

2.7 Monitoring. Licensee has the right to monitor the operation of the System twenty-four hours per day, seven days per week, in order to determine System performance and to ensure that Licensor and/or a System does not cause Interference to the Network, transmission facilities or other equipment. If Interference is discovered, Licensee will determine the cause of such Interference, and may, at its option, disable or shut down such System until Licensee is able to determine and eliminate the cause of the Interference.

3. Licensor Responsibilities. Licensor represents warrants and agrees that:

(a) Licensor will obtain prior to installation all required approvals and consents from any applicable parties, including by not limited to lenders and landlords, which shall allow Licensee to obtain all required governmental approvals and permits, including from the City of Grand Junction, to install, maintain, repair, replace, remove and/or operate the System on the Premises;

(b) Except as otherwise set forth in Section 2.6, Licensor will provide to Licensee, at Licensee's request and at no cost to Licensee, any available conduit, holes (including without limitation any roof penetrations), wireways, wiring, plans, power/utilities and other items reasonably required to allow Licensee to install, repair, maintain, replace, remove, make Modifications to, and/or operate the System, provided such facilities are available. Moreover, Licensor agrees to reasonably cooperate with Licensee with the provision of such, including but not limited to transport, within fifteen (15) days of the request. ;

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(c) Licensor will provide to Licensee, at no cost to Licensee, space in Premises in accordance with Exhibit A that is sufficient, climate controlled, and in such a condition that will allow Licensee to install, repair, maintain, replace, remove, make Modifications to (subject to Section 2.4 above), and/or operate the System;

(d) Licensor represents and warrants that the Premises at which Licensee installs and maintains a System is a suitable and safe working environment, free of Hazardous Materials. "Hazardous Materials" means any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal, or release is regulated by any law related to pollution, protection of air, water, or soil or health and safety. If Licensee discovers, uncovers, disturbs or otherwise reveals any existing Hazardous Materials within the Premises, including but not limited to asbestos, then it must immediately stop any work in progress and report such findings to Licensor. If Licensor has not commenced and diligently pursued corrective action to remediate such Hazardous Materials within thirty (30) days after Licensee's discovery then Licensee may terminate this Agreement. Licensee is hereby released and indemnified from any responsibility for managing, monitoring or abating, and will not be deemed to have ownership of Hazardous Materials, including asbestos, pre-existing within the Premises. Licensee has no obligation to perform work at the Premises that is not a suitable and safe working environment in Licensee's sole discretion;

(e) Licensor will make available to Licensee, on a twenty-four (24) hours per day, seven (7) days per week basis and at no cost to Licensee, access to the System and the Premises as needed to complete any necessary installation, maintenance, repair, replacement, removal, or Modifications of the System. Licensee shall have access Monday thru Friday from 8:00 a.m. until 5:00 p.m. with 24 hour advanced notice except in the case of an emergency, in which case Licensor shall endeavor to provide access as soon as reasonable possible. When accessing the Premises, Licensee may be subject to Licensor's reasonable security procedures and protocol; and

(f) Licensor shall provide at Licensor's sole cost and expense, all electricity, HVAC, and any other utility used or consumed by Licensee.

(g) Subject to Licensee's written approval which will not be unreasonably withheld but may be predicated on the payment to Licensee of the costs required by this section, Licensor will be solely responsible for all costs associated with moving a System within the Premises, or to a new location in the Structure, if such move is requested by Licensor during the Initial Term. If a relocation is requested by Licensor at any time following expiration of the Initial Term of this Agreement, Licensee will be solely responsible for all costs associated with moving a System within the Premises, or to a new location in the Structure, subject to Licensee's right to terminate this Agreement;

If the equipment of any future licensee(s) causes interference to Licensee's System, Licensor shall correct and eliminate the interference within forty-eight (48) hours after receiving notice from Licensor. Any interference disputes shall be resolved on a first in use, first in priority basis. If the interference to Licensee's System is not corrected and eliminated within such forty-eight (48) hour period, Licensor shall use its best reasonable efforts to cause the future licensee(s) to correct and eliminate the interference. If Licensor fails to correct and eliminate the interference, Licensee shall have the right to terminate this Agreement.

4. Term. This Agreement begins on the Effective Date and continues for ten (10) consecutive years (the "Initial Term"). After the Initial Term, the parties may, renew for successive one (1) year periods (each, a "Renewal Term") unless either Party gives the other Party notice of its intent not to renew at least ninety (90) days prior to the end of the then current term.

5. Fee. Licensee will pay the monthly fee of \$200 beginning on the 5th day of the month following the date Licensee begins propogating commercial signals.

6. Insurance. During the Term, Licensee will carry, at its own cost and expense, the following insurance: (i) "All Risk" property self-insurance for its property's replacement cost; (ii) Workers' Compensation Insurance as required by law; and (iii) commercial general liability insurance (ISO policy form CG 00 01 or its equivalent), with respect to its activities on the Property, such insurance to afford protection of Three Million Dollars (\$3,000,000) combined single limit, per occurrence and in the aggregate, providing coverage for bodily injury and property damage. Licensee's CGL insurance shall contain a provision including Licensor as an additional insured by

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endorsement with respect to this Agreement. Notwithstanding the foregoing, Licensee shall have the right to self-insure its "All Risk" property risks

7 **Default.** If either Party fails to perform or observe any material term or condition of this Agreement within thirty (30) days after receipt of written notice of such failure from the other Party, then such Party will be in default of the Agreement ("Default"). No such failure, however, will be deemed to exist if a Party has commenced to cure such Default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. In addition, a Party will be in Default of the Agreement if (i) such Party makes a general assignment for the benefit of its creditors, (ii) a receiver is appointed for that Party due to its insolvency, (iii) that Party initiates a voluntary bankruptcy proceeding, (iv) that Party's creditors initiate a bankruptcy proceeding against that Party and such proceeding is continuing and not dismissed or discharged for sixty (60) days.

8. Termination; Remedies.

8.1 Termination by Either Party. If a Party is in Default of the Agreement under Section 6 hereof, then the other Party may terminate this Agreement and exercise any and all other remedies available at law or in equity.

8.2 Termination by Licensee. Licensee may immediately terminate this Agreement, exercise any and all other remedies available at law or in equity, and shut down any and all applicable Systems upon written notice to Licensor for any reason or no reason at any time prior to commencement of construction of System by Licensee or under the following circumstances:

8.2.1 Regulatory Change. In the event the FCC, the respective State Public Utilities Commission or any other regulatory agency or legislative body promulgates any rule, regulation or order that in effect or application prohibits or adversely affects Licensee's ability to fulfill its obligations hereunder.

8.2.2 Interference. In the event Licensee is unable to eliminate the cause of any Interference identified pursuant to Section 2.7 herein, regardless of the cause.

8.2.3 Operations. In the event it is not feasible, economically or otherwise, for Licensee to provide Connectivity to the System (as described in Section 2.6 above), or Licensee experiences a significant loss of power or Transport.

8.3 Equipment Removal. Upon termination of this Agreement for any reason, Licensee shall have the obligation to enter the Premises and remove the System upon reasonable notice to Licensor, provided, however that Licensee's rights under this Section 7.3 extend only to the Premises.

9. Indemnification.

(a) Licensee agrees to indemnify, defend and hold Licensor harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility or Licensee's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Licensor, its employees, agents or independent contractors.

(b) Licensor agrees to indemnify, defend and hold Licensee harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Licensor, its employees or agents, or Licensor's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Licensee, its employees, agents or independent contractors

(a)

10. Warranties.

(a) Licensee and Licensor each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Licensee makes no express warranty regarding the system or any portion thereof, and Licensee disclaims any implied warranty, including any warranties of merchantability of fitness therefor.

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11. Miscellaneous.

11.1 Limitation of Liability. Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Licensee and Licensor 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.

11.2 Notices. All notices and other communications required or permitted under this Agreement must be in writing and will be deemed to have been duly made and received when personally served or when mailed by overnight delivery service or certified mail, postage prepaid, return receipt requested, to the Parties' addresses set forth on the cover page. Each Party may change its address on thirty (30) days' written notice.

11.3 Governing Law. The laws of the State where the Premises are located will govern all questions with respect to this Agreement. The prevailing Party in any dispute to enforce or interpret this Agreement will be entitled to recover its reasonable costs and attorneys' fees.

11.4 Assignment. This Agreement may be assigned by either Party with prior written notice to the other. Subject to the foregoing, this Agreement will be binding upon the assignees of the respective Parties.

11.5 Third Party Beneficiaries. Other than as expressly set forth herein, this Agreement will not be deemed to provide any third parties with any remedy, claim, right of action, or other right.

11.6 Severability. If any portion of this Agreement is found to be unenforceable, the remaining portions will remain in effect and the Parties will begin negotiations for a replacement of the invalid or unenforceable portion.

11.7 Survival. The terms and provisions of this Agreement that by their nature require performance by either Party after the termination or expiration of this Agreement, including, but not limited to, limitations of liability and exclusions of damages, will be and remain enforceable notwithstanding such termination or expiration of this Agreement for any reason whatsoever.

11.8 Legal Relationship. This Agreement does not render either Party the agent or legal representative of the other Party and does not create a partnership or joint venture between Licensee and Licensor. Neither Party will have any authority to agree for or bind the other Party in any manner whatsoever.

11.9 Waiver. No waiver of any of the provisions of this Agreement will be binding unless it is in writing and signed by both Parties. The failure of either Party to insist on the strict enforcement of any provision of this Agreement will not constitute a waiver of any provision.

11.10 Waiver of Jury Trial. Each party, to the extent permitted by law, knowingly, voluntarily and intentionally waives its right to a trial by jury in any action or proceeding under any theory of liability arising out of or in any way connected with this Agreement or the transactions it contemplates.

11.11 Entire Agreement. This Agreement sets forth the entire agreement between the Parties with respect to the subject matter herein and supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral. No change, modification or waiver of any of the terms of this Agreement will be binding unless made in writing signed by both Parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be Effective as of the last date written below.

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"LICENSOR"

City of Grand Junction

By:  _____
DocuSigned by:
Greg Caton
ID: 15567467

Print Name: Greg Caton

Its: City Manager 8/3/2021 | 11:57 MDT
Date: _____

"LICENSEE"

New Cingular Wireless PCS, LLC

By: AT&T Mobility Corporation

Its: Manager 

By: _____ NEIL BOYER (Aug 5, 2021 10:20 EDT)

Print Name: Neil Boyer

Its: Director Aug 5, 2021
Date: _____

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Exhibit A

CITY PREMISES LOCATIONS

**Grand Junction Police Department
555 Ute Avenue
Grand Junction, CO 81501**

**City Hall, City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501**

**Grand Junction Fire Department HQ
625 Ute Avenue
Grand Junction, CO 81501**