

SITE NAME AND NUMBER:

Rose Elementary School APN 088-12-054

CELLULAR ANTENNA SITE LEASE

This Cellular Antenna Site Lease (Lease) is dated as of **June 24, 2002**, between **PACIFIC BELL WIRELESS, LLC**, a Nevada limited partnership dba **Cingular Wireless** (Lessee), having its principal place of business at 4420 Rosewood Drive, Building 2, 3rd Floor, Pleasanton, CA 94588, and **MILPITAS UNIFIED SCHOOL DISTRICT**, a California public school district (District or Lessor), having its principal place of business at 1331 E. Calaveras Blvd., Milpitas 95135.

RECITALS

WHEREAS, Education Code sections 17527 through 17538 authorize the governing board of any school district to enter into a lease for the joint use of operating school property if the joint occupancy does not (1) interfere with programs or activities of the school, (2) unduly disrupt residents in the surrounding neighborhood, or (3) jeopardize the school children;

WHEREAS, Education Code section 17528 defines "buildings" to include improvements on school grounds,

WHEREAS, Lessee has offered to lease a portion of District property at the Rose Elementary School Site, an operating school site, in order to maintain a Cellular site;

WHEREAS, the property to be leased does not (1) interfere with programs or activities of the school, (2) unduly disrupt residents in the surrounding neighborhood, or (3) jeopardize the school children; and

NOW, THEREFORE, the parties agree as follows:

1 The Site. District is the record owner of a certain parcel of real property and improvements located in the State of California, County of Santa Clara, City of Milpitas, commonly known as Rose Elementary School, 250 Roswell Drive, Milpitas, California, APN 088-12-054, as more fully described in the attached Exhibit A to this Lease (the Site).

2 Lease of the Premises.

2.1 Premises. District hereby leases to Lessee that portion of the Site described in Exhibit B (the Premises) together with the nonexclusive right for ingress and egress. District and Lessee hereby agree that the Premises, including any Access Areas (defined in section 7) shall be surveyed by a licensed surveyor at the sole cost of Lessee, and the legal description prepared by the surveyor shall then supplement Exhibit B, and become a part hereof and shall control to describe the Premises and Access Areas in the event of any discrepancy between the legal description prepared by the surveyor and the description of the Premises contained herein. Lessee shall be responsible for returning the Premises and any Access Areas to their existing state, at Lessee's expense, following any tests, analysis, and/or surveys.

2.2 Lessee Improvements. Following the Commencement Date (defined in section 5), Lessee shall have the right to construct Improvements, including

access for utilities to Premises, in accordance with the plans attached as Exhibit C (the Improvements) after approval by District for construction by District. Lessee shall obtain the consent of District for any modifications required to accommodate the Improvements not shown in Exhibit C, including any that involve increasing the dimensions or height or changing the orientation of Lessee's equipment shelter or antennas, or any increase in the number of antennas. Lessee shall at its own expense obtain all necessary environmental and governmental approvals and permits, including, without limitation, any necessary approvals from the Division of the State Architect, prior to commencing construction and shall provide District with evidence of approval by all applicable governmental agencies. All of Lessee's contractors and subcontractors shall be duly licensed in the state of California. Lessee shall be solely responsible for maintaining the Premises and its equipment and antennas installed thereon during the term of this Lease, including any extensions, and for compliance with all applicable laws or ordinances, rules and regulations.

2.2.1 Future Collocation: District Antenna. In the event that District allows another carrier on its site by separate agreement, Lessee shall allow a future collocated telecommunications carrier on the roof and/or Tower provided (1) such collocation is technically feasible and does not result in a change in any of the findings set forth in the Recitals or frequency interference (determined pursuant to section 8 below), (2) the Tower has sufficient structural integrity to safely accommodate the future carrier according to all applicable codes and standards, (3) the future carrier pays to Lessee fifty percent (50%) of the total hard and soft development, permitting and construction costs, adjusted for inflation, for the Tower plus a periodic license fee at market rates, (4) District, the future carrier, and Lessee reach mutually and reasonably acceptable provisions concerning access, term, indemnification, insurance and other standard items, also revenue to District must increase at market rate and the collocated telecommunications carrier must issue a certificate of insurance and an additional insured endorsement evidencing coverage of the District in the amounts set forth in section 17 of this Lease, (5) the future carrier obtains all required rights from District, and (6) the future carrier obtains all required permits and approvals from the applicable jurisdiction(s).

3 Rent.

- 3.1 Base Rent. Lessee shall pay to District rent in the amount of **One Thousand Seven Hundred Twenty-four Dollars and Twenty-five cents (\$1,724.25)** per month, due and payable on the first day of each month, in advance.
- 3.2 Utility Charge. Lessee shall install separate utility meters or submeters at the Premises and, when permitted by the serving utilities, Lessee shall be responsible directly to the serving utilities for all utility service required for Lessee's use of the Premises. In the event utilities are provided by District, Lessee shall pay the cost of utility service provided to the Premises (Utility Charge). In the event utilities are provided by District, Lessee shall pay as additional rent each month the cost of utility

service provided to the Premises (Utility Charge) and following the Commencement Date pay the estimated cost of the monthly Utility Charge, in advance, together with the monthly rent, which monthly Utility Charge the parties estimate at the Commencement Date to be Three Hundred Dollars (\$300) per month (the Estimated Utility Charge). District and Lessee agree to cooperate in good faith in revising the Estimated Utility Charges during the term of this Agreement. If Lessee is required to pay a Utility Charge to District, no later than thirty (30) days after the first anniversary of the Commencement Date and no later than thirty (30) days after each annual anniversary of the Commencement Date thereafter, District (or at District's election Lessee) shall calculate the actual Utility Charge for the preceding twelve (12) months based on readings from the utility meters or submeters on the Premises and at the then-current rates charged by the Servicing Utility. If Lessee calculates the actual Utility Charge for any twelve- (12) month period, it shall provide written documentation to District evidencing the readings and the rates within forty-five (45) days of the first anniversary of the Commencement Date and no later than forty-five (45) days after each annual anniversary of the Commencement Date thereafter. Any excess paid by Lessee will be credited to Lessee's next due Utility Charge or if determined at the expiration or termination of the Lease term, such overcharge shall be promptly refunded to Lessee. Lessee shall pay any shortage not paid by Lessee within ten (10) days of written notice of such calculation. Lessee warrants and covenants to indemnify, defend, and hold District harmless from and against any injuries or damages caused by the installation, use, or maintenance of Lessee's separate utilities.

- 3.3 Annual Increases in Rent. The Base Rent provided for in paragraph 3.1 shall be subject to adjustment on each anniversary of the commencement date during the initial term and each extension term (the Adjustment Dates). The base for computing the adjustment is the Consumer Price Index, All Urban Consumers (CPI-U), San Francisco-Oakland-San Jose Area, All items (standard reference base period 1982-84 = 100) published by the United States Department of Labor, Bureau of Labor Statistics (the Index), which is in effect on the Commencement Date (the Beginning Index). The annual Index published most immediately proceeding the Adjustment Date in question (the Adjustment Index) is to be used in determining the amount of the adjustment. If the Adjustment Index has increased over the Beginning Index, the monthly Base Rent for the period following the Adjustment Date in question and until the next Adjustment Date shall be set by multiplying the Base Rent set forth in paragraph 3.1 by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index. In no case shall the Base Rent be less than the Base Rent set forth in paragraph 3.1 and in no case shall the Base Rent increase less than four percent (4%) unless this is a negotiated term on any Adjustment Date. If the Index is changed so that the base year differs from that in effect when the term commences, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.
- 3.4 Option Term Market Rate Adjustment. The foregoing notwithstanding, the Base Rent to be paid during the first year of the extension term if extended by District shall be determined as set forth in this paragraph, and shall not be further adjusted based

on the Index until the second and succeeding years of the extension term. At the time of exercise of the extension term as set forth herein, Lessee shall provide to Lessor information specifying the rent, license fees, or similar monthly consideration Lessee is then paying for active communications sites in the City of Milpitas (each a Comparable Site). The consideration to be paid by Lessee upon commencement of the extension period of this Lease shall be the average of the amounts then being paid for comparable sites; provided, however, that in no event shall the amount of consideration payable at the commencement of the extension period be less than the amount paid by Lessee hereunder immediately prior to the fifth (5th) anniversary of the Commencement Date.

- 3.5 **Personal Property Taxes.** Lessee shall pay, prior to delinquency, all personal property taxes, including possessory interest taxes, and assessments charged on Lessee's equipment and other personal property located on the Site or for Lessee's lease of the Premises.
- 4 **Term of Lease.** This Lease shall be for a term of five (5) years. The parties shall have the right to extend the Lease upon mutual consent beyond the initial term three (3) times for a period of five (5) years for each extension, with such consent not to unreasonably withheld, upon District's Board determination that (1) Lease does not interfere with the educational program or activities of the District, school, or classes conducted in any building or upon real property; (2) the Lease is not unduly disruptive to the residents of the surrounding neighborhood and (3) the Lease does not jeopardize the safety of the school children, on the same terms, covenants, and conditions as are contained in this Lease, except as changes are identified herein. Lessee may request extension of the lease term by a written offer to extend not less than one hundred and twenty (120) days prior to the expiration of the current term. District may agree to extend the lease term, upon Lessee's request by giving written notice of acceptance of Lessee's offer to extend to Lessee not less than sixty (60) days prior to the expiration of the then current term. This Lease, including the license to the Access Areas set forth in section 7, shall be irrevocable during the initial term and any extension term, subject to rights of termination as set forth in sections 12 and 13.
- 5 **Commencement Date: Governmental Permits.** The initial term of this Lease shall commence the date District and Lessee execute this Lease (the Commencement Date). Lessee shall be permitted to occupy the Premises and commence construction of the Improvements on or after the Commencement Date upon receipt of all permits and approvals and notice to District as required in section 2. In the event Lessee fails to obtain the required permits or approvals within six months after the date of execution of the Lease, District, at its option, may terminate the Lease immediately upon written notice to Lessee.
- 6 **Use of the Premises.** Lessee shall use the Premises as one of Lessee's communications sites (a Cell Site) comprising Lessee's system (the System) for furnishing cellular telephone, radio and telecommunications services to the public that Lessee is legally authorized to provide as set forth in section 2 during the term of this Lease. Lessee shall not use the Premises for any other purposes without the written consent of District.
- 7 **Access Areas.** District hereby grants to Lessee for the duration of this Lease, or any extensions thereof, an unimpaired, non-exclusive license in and over the following portions of the Site (collectively the Access Areas): the access roads shown (if any) in Exhibit B (the Access Road), the overhead or underground cable and utility runs shown (if any) in Exhibit B (the Utility Runs), and all areas shown (if any) on Exhibit B necessary to provide physical

access by personnel and equipment from the nearest public right of way, and utilities from the nearest service, to or from the Premises. The rights granted to Lessee herein are for the purpose of installing, constructing, maintaining, restoring, replacing, and operating Lessee's equipment located within or on the Premises, including, in the case of an emergency, the right to install temporary facilities required to maintain continuous operation of the Cell Site including a fuel-powered electrical generator, subject to obtaining the necessary governmental approvals. Lessee must obtain District consent from Director of Maintenance, Operations and Transportation at the District at least twenty-four (24) hours in advance of Lessee's employees, agents, or subcontractors, or lenders coming on District property, except in the case of emergency, in which situation Lessee shall enter only as necessary to take measures necessitated by the emergency, subject to notice to District within twenty-four (24) hours after the emergency.

At least twenty four (24) hours prior to the Lessee, its employees, agents, contractors or employees of its contractors entering any portion of the Premises or Site, the Lessee shall be responsible for providing to the District the required Contractor Certification for Employee Background Clearance.

- 8 **Protections Against Interference.** At no time should Lessee's facilities or use interfere with the District's use of the Site, or with the pre-existing communications facilities or operations permitted under District's other leases or licenses. If Lessee's use of District property as provided in this Lease will cause interference(s) with other uses, Lessee shall inform District of said interference(s) and those situations that will create the potential interference prior to signing this Lease. District shall provide Lessee with notice of other communication antennas on the Site or previously planned or permitted by District to be installed on the Site. Notice shall include technical information from the party proposing such installation which is sufficient for Lessee to determine whether the installation will interfere with Lessee's operation. Lessee shall advise District within ten (10) days of receipt of such notice whether, in Lessee's reasonable discretion as determined by its licensed radio frequency engineer, the proposed use will cause any interference with Lessee's operation of the System. If District disputes Lessee's determination based on the analysis of a licensed radio frequency engineer, to be employed by District at Lessee's expense, District and Lessee shall meet to attempt to resolve the issues. If District and Lessee have not resolved the issues by mutual agreement within thirty (30) days of Lessee's notice, the parties shall submit the matter to an impartial licensed radio frequency engineer selected by the engineers of Lessee and District, and the determination of the impartial licensed radio frequency engineer shall control. If Lessee has informed District prior to entering into this Lease of those situations that will create the potential for or actual interference, any future license, lease, or easement of or upon the Site which permits the installation of communication equipment shall be conditioned upon not interfering with Lessee's operation of the Cell Site. Lessee shall not be required to modify the Cell Site to prevent interference with any new communications use of the Site so long as Lessee operates the Cell Site within its assigned frequencies and in compliance with all applicable federal, state and local laws, ordinances, rules and regulations and has informed District of the potential for interference prior to the execution of this Lease.

- 9 **Damage and Destruction.** If the Premises are damaged or destroyed then: (1) if the damage or destruction is sufficient to prevent reconstruction of the Improvements, then upon either party's election and notice to the other party, this Lease shall terminate, and Lessee shall be liable for the monthly rental fee only up to the time Lessee removes all of the Improvements from the Premises; but (2) if neither party elects to terminate the Lease, Lessee shall repair the Improvements at its own cost and expense as they were before the damage or destruction.

- 10 **Condemnation.** If all or part of the Premises is taken by condemnation, this Lease shall terminate unless Lessee's equipment and Improvements can be maintained or relocated to another position at the Site acceptable to District and Lessee. Lessee shall be entitled only to that portion of the proceeds of condemnation which is directly attributable to the value and cost of any relocation of Lessee's equipment and Improvements.
- 11 **Need to Prevent Unsupervised Access.** Lessee's cellular equipment is highly sensitive and is subject to federal requirements such that any entry onto the Premises be restricted. In case of emergency, District shall call Lessee's 24 hour network Operating Center at 800-260-6003 prior to entering the Premises and if possible, give Lessee a reasonable opportunity to have a representative present. If a Lessee representative is not present during a District entry of Premises, District promptly thereafter and in no case more than twenty-four (24) hours following an entry shall advise Lessee of the nature of the entry, any problems or unsafe conditions observed, and any actions taken by District therein.
- 11.1 Lessee shall be responsible for supervising and controlling the access of its employees, agents and contractors to Site. Lessee acknowledges that the Premises is a school site, and Lessee shall provide for the safety of students and prevent unauthorized access to its Improvements.
- 11.2 Lessee shall allow District access, upon request if the District discovers an unsafe condition, including access if necessary, to measure EMFs.
- 12 **Termination by Either Party.** Lessee may terminate this Lease for cause upon the giving of sixty (60) days' written notice to the District if any of the following events occur: (a) Lessee fails to obtain or loses any necessary permits, approvals or orders and is thereby unable to use the Premises as a Cell Site; (b) Lessee determines that the Premises is not appropriate for locating Lessee's equipment for technological reasons including signal interference; or (c) Lessee fails to comply with any term, condition or covenant of this Lease and does not cure such failure within thirty (30) days after written notice thereof or in the event of a cure which requires in excess of thirty (30) days to complete, if District has not commenced a cure within thirty (30) days of notice and is not diligently prosecuting said cure to completion.
- 13 **Termination by District.** District may terminate this Lease for cause upon the occurrence of any of the following: (a) failure by Lessee to pay any Rent required hereunder when due if such failure shall continue for more than ten (10) calendar days after delivery to Lessee of notice of failure to make timely payment; (b) failure by Lessee to comply with any material term, condition or covenant of this Lease, other than the payment of any Rent, if such failure is not cured within thirty (30) days after written notice thereof to Lessee or in the event of a cure which requires in excess of thirty (30) days to complete, if Lessee has not commenced a cure within thirty (30) days of such notice and is not diligently prosecuting said cure to completion; (c) the joint occupancy and use of school district property interferes with the educational program or activities of the District, school, or classes conducted in any building or upon the real property; (d) the joint occupancy and use unduly disrupts the residents of the surrounding neighborhood; (e) the joint occupancy and use jeopardizes the safety of the school children; (f) Lessee fails to comply with all applicable laws, ordinances, rules and regulations, or the District needs the Premises for its own purposes. In addition, District shall terminate this Lease in the event Lessee fails to obtain the necessary governmental approvals or fails to commence construction within six (6) months of the execution of this

Lease. If District terminates this Lease for any reason, Lessee shall remove all of its facilities, equipment and Improvements at its own expense. If Lessee fails to remove all its facilities, equipment and Improvements within thirty (30) days after written notification of termination of the Lease, District may remove Lessee's facilities and recover the costs of removal from Lessee.

- 14 **Warranties and Covenants of District.** District warrants and covenants that: (a) District has legal right to possession of the Premises and that Lessee, upon the faithful performance of all of the terms, conditions and obligations of Lessee contained in this Lease, may peaceably and quietly hold and enjoy the Premises upon the terms, covenants and conditions set forth in this Lease throughout the term of this Lease and any extensions thereof; (b) District shall deliver the Premises to Lessee clean and free of debris on the Commencement Date. Lessor represents that the premises have not been used for the generation, storage, treatment or disposal of hazardous substances or hazardous waste. In addition, Lessor represents that no hazardous substances, hazardous wastes, pollutants, asbestos, polychlorinated biphenyls (PCBs), petroleum or other fuels (including crude oil or any fraction or derivative thereof) or underground storage tanks are located on or about the premises. Notwithstanding any other provision of the Agreement, Lessee relies upon the representations stated herein as a material inducement for entering into the lease. Lessee agrees not to generate, store, treat or dispose of hazardous substances, (with the exception of the back-up batteries contained within the equipment cabinets) hazardous wastes, pollutants, asbestos, polychlorinated biphenyls (PCB), petroleum or other fuels.
- 15 **Warranties and Covenants of Lessee.** Lessee warrants and covenants that (a) Lessee will use the Premises and Site in compliance with all applicable laws and District policies; (b) Lessee shall not use or store Hazardous Materials on the Premises in violation of any law or regulation, as more specifically provided for in Section 23; and (c) Lessee warrants that no dangerous condition shall occur resulting from its use of the Site or location near the School.
- 16 **Liability, Defense, Hold Harmless, Indemnification.** Lessee shall at all times comply with all laws, ordinances, rules and regulations of municipal, state and federal governmental authorities and all District policies and rules relating to the installation, maintenance, height, location, use, operation, and removal of Improvements authorized herein, and shall fully defend, hold harmless and indemnify District against any claim which may be sustained or incurred by District as a result of Lessee's activities on or in the vicinity of the Site and/or the Access Area, including but not limited to, negligent installation, operation or removal of such Improvements, except for any claim which arises from the gross negligence or willful misconduct of District or of District's agents, employees or contractors. Each party hereunder shall indemnify, hold harmless and defend the other party from any claim, including reasonable attorneys' fees and costs, arising out of the breach of any covenant or warranty made under this Lease. Except for acts of sole gross or willful misconduct of District or of District's agents or employees or contractors. District shall not be liable to Lessee for any loss or damages arising out of death, personal injuries or property damage on or in connection with the construction, operation or removal of facilities, equipment, or Improvements on the Premises or in connection with this Lease.
- 17 **Insurance.** Lessee shall maintain Commercial General Liability Insurance, with a single combined limit of two million dollars (\$2,000,000) per occurrence, and Comprehensive Automobile Liability Insurance for bodily injury, including death, and property damage that provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles. Lessee shall furnish

District with a Certificate of Insurance and an Additional Insured Endorsement naming the District as Additional Insured indicating the applicable coverage at the commencement of the term and each extension term and prior to any change in coverage or insurer. Lessee shall also furnish evidence of workers compensation insurance.

17.1 Lessee shall insure all Improvements, facilities, and equipment on or used in connection with the premises or the Lease. Not less than thirty (30) days' notice of cancellation or material change shall be furnished to District, and this shall be indicated on each Certificate of Insurance.

- 18 **Surrender.** Upon expiration or earlier termination of this Lease, Lessee shall remove the facilities, equipment and Improvements installed at the Premises by Lessee and shall surrender the Premises in as good order and condition as when first occupied by Lessee, reasonable wear and tear and damage by fire or other casualty excepted. Lessee shall be required to remove its facilities including, but not limited to, any foundation for the tower or equipment shelter, and underground cable and conduit. If Lessee has not removed all its facilities, equipment, and Improvements within sixty (60) days after termination of this Lease, District may, after ten (10) days' written notice to Lessee, treat any or all such equipment and Improvements as abandoned by Lessee. In this event, District may remove Lessee's facilities, equipment and Improvements and recover the cost of removal from Lessee and restore the Premises to the condition required by this section 18.
- 19 **Removal of Lessee's Equipment.** Lessee's equipment and all Improvements installed at and affixed to the Premises by Lessee shall be and shall remain the property of Lessee unless abandoned. Lessee may, at any time, including any time it vacates the Premises, remove Lessee's equipment and all of Lessee's personal property from the Premises.
- 20 **Holding Over.** If Lessee holds over after the term of this Lease, including any extension term, has expired, the provisions of this Lease shall continue in effect, except that either party may terminate this Lease upon thirty (30) days' notice to the other party at any time after such expiration.
- 21 **Assignment and Subletting.** Lessee shall not assign or otherwise transfer or encumber all or any part of Lessee's interest in this Lease without District's prior written consent, except for an assignment to Lessee's affiliates which will not require Lessor's consent.
- 22 **Notices and Other Communications.** Every notice required by this Lease shall be delivered either by (i) personal delivery, including delivery by an overnight courier service which obtains confirmation of receipt; or (ii) postage-prepaid, return-receipt- requested certified mail addressed to the party for whom intended at the addresses appearing in the first paragraph above or at such other address as the intended recipient shall have designated by written notice.

A copy of each notice sent to Lessee shall be sent to:

Pacific Bell Wireless, LLC
dba Cingular Wireless
4420 Rosewood Drive, Building 2, 3rd Floor
Pleasanton, CA 94588
Attention: PBW Property Manager

A copy of each notice sent to District shall be sent to:

Assistant Superintendent - Business Services
Milpitas Unified School District
1331 E. Calaveras Blvd.
Milpitas, CA 95135

- 23 **Hazardous Substances.** Lessee represents, warrants, and agrees that it will not use, generate, store or dispose of any Hazardous Material, as defined herein, on, under, about or within the Site in violation of any law or regulation or allow any agent or third party to do so. Lessee agrees to defend, indemnify and hold harmless the District and the District's officers, trustees, partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs, including reasonable attorney's fees and costs, arising from any breach of any representation, warranty or agreement contained in this section. As used in this section, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, any substance known by the state of California to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation.
- 24 **Waivers.** Any waiver of any right under this Lease must be in writing and signed by the waiving party, and shall not waive any other right or obligation.
- 25 **Written Agreement to Govern.** This Lease is the entire understanding between the parties relating to the subjects it covers.
- 26 **Attorneys' Fees.** The prevailing party in any action or proceeding brought to enforce this Lease shall be entitled to recover its reasonable attorneys' fees, costs, and expenses in connection with such action or proceeding from the other party.
- 27 **Further Assurances.** In addition to the actions specifically mentioned in this Lease, the parties shall each do whatever may be reasonably necessary to accomplish the transactions contemplated in this Lease. Lessee shall notify District regarding the requirements for execution of all applications, permits and approvals requested of District for construction of the Improvements by Lessee; execution of IRS Form W-9 and provision of a federal tax identification number by District.
- 28 **Law Governing Lease.** This Lease shall be governed by the laws of the State of California, and venue for any legal action shall be in the County of Santa Clara.
- 29 **Encumbrances.** Lessee shall not encumber the Premises or any other portion of the Site, nor shall it allow its subcontractors, agents, lenders or any other person to encumber the Premises or the Site that are the subject of this Lease.
- 30 **Marking and Lighting Requirements.** Lessee is responsible for the marking and lighting requirements of the Federal Aviation Administration (FAA) and the Federal Communication Commission (FCC) for Lessee's facilities and use of the Premises. Should District be cited by either the FAA or the FCC because of Lessee's facilities, District may terminate the Lease upon notice to Lessee and proceed to cure the conditions of noncompliance at Lessee's expense and Lessee shall indemnify the District from and against all expenses in relation thereto or arising from any citation or failure to comply with legal requirements.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first set forth above.

LESSEE: F. Kevin Flaherty
PACIFIC BELL WIRELESS, LLC,
dba CINGULAR WIRELESS
GSM FACILITIES, LLC,
its sole member
By: CINGULAR WIRELESS, LLC,
its agent

Title: DIRECTOR

Printed Name: F. KEVIN FLAHERTY

Date: 6/24/02

LESSOR:
MILPITAS UNIFIED SCHOOL
DISTRICT

By: Karen Allen

Title: Assistant Supt. - Business Services

Printed Name: Karen Allen

Date: June 20, 2002

SCHEDULE OF EXHIBITS:

Exhibit A (the Site);
Exhibit B (the Premises);
Exhibit C (the Improvements).

Exhibit "A"

All that certain real property situate in the County of Santa Clara, State of California, described as follows:

(City of Milpitas)

PARCEL ONE:

COMMENCING at a point in the Southwesterly line of that certain 188.56 acre tract shown on Record of Survey Map recorded in Book 45 of Maps, Page 35, Santa Clara County Records, distant thereon South 15 deg. 30' East, 1,992.53 feet from a ½ inch iron pipe set in the Northerly line of the Milpitas Rancho at the most Westerly corner of said 188.56 acre tract; thence parallel with said Northerly line of the Milpitas Rancho North 74 deg. 30' East, 1,080.09 feet to true point of beginning of the parcel of land to be described; thence continuing North 74 deg. 30' East 647.70 feet; thence North 15 deg. 30' West 672.53 feet; thence South 74 deg. 30' West 647.70 feet; thence South 15 deg. 30' East 672.53 feet to the true point of beginning.

PARCEL TWO:

COMMENCING at a point in the Southwesterly line of that certain 188.56 acre tract shown on Record of Survey Map recorded in Book 45 of Maps, Page 35, Santa Clara County Records, distant thereon South 15 deg. 30' East 1,992.53 feet from a ½ inch iron pipe set in the Northerly line of the Milpitas Rancho at the most Westerly corner of said 188.56 acre tract; thence parallel with said Northerly line of the Milpitas Rancho South 74 deg. 30' East 1,727.79; thence North 15 deg. 30' West 634.24 feet to the true point of beginning of the parcel of land to be described; thence South 15 deg. 30' East 20.00 feet; thence North 74 deg. 30' East 120.00 feet; thence North 15 deg. 30' West 20.00 feet; thence South 74 deg. 30' West 120.00 feet to the true point of beginning.

PARCEL THREE:

COMMENCING at a point in the Southwesterly line of that certain 188.56 acre tract shown on Record of Survey Map recorded in Book 45 of Maps, Page 35, Santa Clara County Records, distant thereon South 15 deg. 30' East, 1,992.53 feet from a ½ inch iron pipe set in the Northerly line of the Milpitas Rancho at the most Westerly corner of said 168.56 acre tract; thence parallel with said Northerly line of the Milpitas Rancho North 74 deg. 30' East 1,080.09 feet to true point of beginning of the parcel of land to be described; thence continuing North 74 deg. 30' East 647.70 feet; thence South 15 deg. 30' East 134.51 feet; thence South 74 deg. 30' West 647.70 feet; thence North 15 deg. 30' West 134.51 feet to the true point of beginning.

EXHIBIT "A" Continued**PARCEL THREE:**

COMMENCING at a point in the Southwesterly line of that certain 188.56 acre tract shown on Record of Survey Map recorded in Book 45 of Maps, Page 35, Santa Clara County Records, distant thereon South 15 deg. 30' East, 1,992.53 feet from a ½ inch iron pipe set in the Northerly line of the Milpitas Rancho at the most Westerly corner of said 168.56 acre tract; thence parallel with said Northerly line of the Milpitas Rancho North 74 deg. 30' East 1,080.09 feet to true point of beginning of the parcel of land to be described; thence continuing North 74 deg. 30' East 647.70 feet; thence South 15 deg. 30' East 134.51 feet; thence South 74 deg. 30' West 647.70 feet; thence North 15 deg. 30' West 134.51 feet to the true point of beginning.

Assessor's Parcel Number **088-12-054**