

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION

For Inclusion on Board Agenda

____X____ Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
 _____ Recommendations of Boards, Commissions & Committees (Green)
 _____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: February 8, 2007 (B of T) Date: February 15, 2007

TITLE: Release and Settlement Agreement with Cingular Wireless (Previously Cell One) at Well House No. 11

SUBMITTED BY: Department of Community Development *W. T. Lichter*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing signatures of the Village President and the Clerk on a Release and Settlement Agreement with Cingular.

Staff recommends approval of this request.

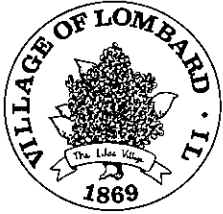
Please place this item on the February 15, 2007 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X <i>W. T. Lichter</i>	Date <i>2/8/07</i>

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



Memorandum

To: William T. Lichter, Village Manager of Lombard

From: David A. Hulseberg, AICP, Assistant Village Manager *DAH*

Date: February 6, 2007

Subject: Release and Settlement Agreement with Cingular Wireless (Previously Cell One) at Well House No. 11

The Village of Lombard entered into a lease agreement in February of 1996 with New Cingular Wireless Services PCS, LLC (Cingular) to lease a portion of Well House No. 11 for placement of wireless antennae equipment. The agreement provided a monthly monetary payment in the amount of \$600 for the Third Term of the agreement. Said agreement was to expire on February 12, 2011. Cingular now desires to terminate that agreement and to pay the remaining amount due as a lump sum of \$30,000. This amount represents the full value of the agreed upon contract.

Cingular has removed all equipment from the property and restored it to an acceptable manner. Village Counsel has reviewed the Release and Settlement Agreement and finds it to be acceptable.

Recommendation: Staff recommends that the Village Board authorize the Village President and the Village Clerk to sign a Release and Settlement Agreement with Cingular.

This Instrument Prepared by:

Taxpayer I.D. _____

CELLULAR ONE-Chicago
Legal Department
930 National Parkway,
Schaumburg, Illinois 60173
(708) 762-2036

Permanent Index Number: 06-19-304-006

LICENSE FOR MICROCELL SITE PR1-223

This License (herein so called) made as of the 15th day of February, 1996 by and between THE VILLAGE OF LOMBARD, an Illinois municipal corporation ("LICENSOR"), having a business address of 255 E. Wilson, Lombard, Illinois 60148, and SOUTHWESTERN BELL MOBILE SYSTEMS, INC. d/b/a CELLULAR ONE-Chicago, a Delaware and Virginia corporation ("LICENSEE"), having its principal place of business at 930 National Parkway, Schaumburg, Illinois 60173.

WHEREAS, LICENSOR is the owner of a certain parcel of real estate (the "Parcel") which is known as Lombard Well No. 11 and is located at 1778 Springer Drive, Lombard, Illinois 60148; and

WHEREAS, LICENSEE desires to obtain a license from LICENSOR to use certain space on the Parcel (the "Site") for the purpose of the construction, installation, operation and maintenance of radio transmission facility (a Microcell); and

WHEREAS, such Microcell shall consist of four (4) pipe-mounted panel antennas installed on the outside surface of an existing building (the "Pole"), and up to two (2) equipment/utility cabinets to be installed in a mutually agreed upon location on the Site, all as described and depicted on the Equipment Location Plan (the "Plan") attached hereto and made a part hereof as Exhibit "A".

NOW THEREFORE, in consideration of the terms, conditions and rentals hereinafter set forth and other good and valuable consideration, the adequacy of which is hereby acknowledged, LICENSOR and LICENSEE agree as follows:

1. A. LICENSOR hereby grants to LICENSEE an exclusive license to use a certain area (the "Premises") on the Parcel situated in the Village of Lombard in the County of DuPage and State of Illinois, as depicted and set forth in the Plan attached hereto as Exhibit "A", together with the benefit and use of any and all easements, privileges and other appurtenances pertaining to the Premises, TO HAVE AND TO HOLD the Premises for the benefit of LICENSEE and its affiliates and their respective lenders, mortgages, deed of trust trustees, consultants, subtenants, employees, agents, partners, shareholders, directors, officers,

contractors, subcontractors and licensees and their respective successors and assigns (collectively, "LICENSEE's Related Parties"), for a term (the "Term") as hereinafter described in paragraph 3 below. Except as otherwise provided in this Agreement, the licenses granted hereby shall be irrevocable during the Term.

B. The parties agree that a verbal description of the Site, consisting of the common address or approximate location of each Site, will be sufficient to allow the parties to move forward with this License. At such time as a survey depicting the exact location of each Site is requested or required, the parties agree to attach such survey to this License as an Exhibit, and such survey shall become a part of this Agreement for all purposes.

2. LICENSEE shall have the right at any time during the Term to install, maintain, operate, replace or remove any of its telecommunications equipment in or upon the Site, including, without limitation, antennas, wires, transmitters, appliances, and other equipment (the "Equipment"), all of which shall belong to and be removable by LICENSEE during the Term and within no more than thirty (30) days after the expiration of the Term. In addition, LICENSEE shall have certain non-exclusive rights of use and access to other portions of the Parcel upon which the Site is located as shall be designated by LICENSOR (i) for purposes of ingress and egress to the Site; (ii) for purposes of construction, installation, repair, replacement, maintenance and operation of LICENSEE's Equipment, including, without limitation, access to the antennas and other Equipment on the Site; (iii) for purposes of obtaining electric and telephone utility services, including, without limitation, access from the Site to electric and telephone utility facilities (if any); and (iv) for purposes of communications facilities and cable as may be required for LICENSEE's Equipment. Notwithstanding anything to the contrary contained herein, all rights of access and other rights granted to LICENSEE under this paragraph 2 are subject to LICENSEE's exercise of such rights of access and other rights being consistent with the primary purpose of the Parcel as determined by LICENSOR.

3. The Term (the "Term") of this License shall be five (5) years, and shall commence (the "Commencement Date") on the first day of the month following LICENSEE's receipt of the last of the Approvals (as hereinafter defined) described in paragraph 5 of this License. Thereafter, if this License is not terminated by either party by written notice to the other party at least sixty (60) days prior to the end of the Term or any Extended Term, this License may be renewed for up to three (3) additional terms of five (5) years each (the "Extended Terms"). Beginning on the Commencement Date, rent shall be paid in equal monthly installments on the first day of each month, in advance, at the

address of LICENSOR set forth above, to the attention of the Village Manager, in the amounts set forth in Schedule 1 attached hereto and made a part hereof. The word "Term" as used herein shall be deemed to include the Extended Terms as and when the Extended Terms commence.

4. LICENSOR shall grant to LICENSEE any rights of use as may be required for LICENSEE to obtain electric and telephone utility service for LICENSEE's equipment at LICENSEE's sole cost and expense. LICENSEE shall install separate usage meters for all of the utilities LICENSEE deems necessary for the operation of its Equipment. Subject to the restrictions set forth in Section 2 of this License for Microcell, LICENSOR agrees that LICENSEE shall have free and unrestricted access to the Site.

5. It is understood and agreed that LICENSEE's ability to use the Site under the License granted by LICENSOR, and the effectiveness of this License, is contingent upon LICENSEE obtaining any and all zoning approval, certificates, permits and any other approvals (the "Approvals") that may be required by any federal, state or local governmental authorities, and any and all electric and telephone utility connections that may be required for operation of the Equipment. If LICENSEE is unable to obtain any such Approvals or connections, or if, prior to the Commencement Date, LICENSEE determines after careful study that the Sites are not satisfactory for LICENSEE's use as contemplated herein, LICENSEE shall provide written notice thereof to LICENSOR, and this License shall forthwith terminate and both parties shall be relieved of any further obligation thereunder.

6. LICENSOR represents and warrants unto LICENSEE that LICENSOR is the owner of record of the Parcels and that LICENSOR has valid and enforceable rights in and to the Parcels of which the Site are a part in order to enable LICENSOR to enter into this License and license the Site to LICENSEE, without the necessity of any consent or approval from any other party, including any mortgagee or lien holder of LICENSOR, and LICENSOR acknowledges that LICENSEE is relying upon the foregoing warranty in entering into this License and in expending monies in connection herewith. If requested by LICENSEE, LICENSOR agrees to furnish LICENSEE with information concerning the names and addresses of any and all of LICENSOR's Mortgagees, and LICENSOR shall use its best efforts to obtain from the holder(s) of any Mortgage, a non-disturbance agreement in a written form reasonably acceptable to LICENSEE.

7. A. LICENSEE agrees to indemnify and hold harmless LICENSOR and the Parcel from and against any and all liens or claims for liens for material or labor by reason of any work done and/or material furnished by LICENSEE in connection with the construction of any improvements at any time made by LICENSEE in or upon the Site.

B. LICENSEE shall not do or permit any act or thing to be done upon the Site or the Parcel which may subject LICENSOR to any liability or responsibility for injury, damage to persons or

property but shall exercise such control so as to fully protect LICENSOR from and against any such liability (unless any such injury or damages is caused by LICENSOR's sole negligence or willful misconduct). LICENSEE agrees to indemnify and save LICENSOR, and its officers, agents and employees harmless from (i) all claims of whatever nature against LICENSOR and its officers, agents and employees arising from any act, omission or negligence of LICENSEE, its contractors, licensees, agents, servants, employees or invitees upon the Premises; (ii) all claims against LICENSOR arising from any accident, injury or damage caused to any person or to the property of any person as a result of any act, omission or negligence of LICENSEE in or upon the Site and/or the Parcel; and (iii) any breach, violation or non-performance of any covenants, conditions or agreements in this AGREEMENT set forth and contained on the part of LICENSEE to be fulfilled, kept, observed and performed.

8. Upon expiration or termination of this License, LICENSEE shall, within a reasonable period of time not to exceed thirty (30) days, remove all of its Equipment from the Site, and restore the Site to, and yield up the Site in, at least as good a condition as when the same were entered upon by LICENSEE, ordinary wear and tear, and losses by causes beyond LICENSEE's control excepted.

9. Except to the extent of LICENSOR's obligations pursuant hereto, LICENSEE shall keep the Site in good condition and repair in accordance with, and shall otherwise comply in all respects with, applicable state, federal and local laws.

10. Any sale, other conveyance or assignment by LICENSOR of all or any part of the Parcel to a purchaser, shall be under and subject to this License and LICENSEE's rights hereunder. However, LICENSOR shall have the right to assign this License upon written consent by LICENSEE, and LICENSEE's agrees that such consent will not be unreasonably withheld or delayed.

11. All notices under this License shall be in writing and shall be deemed given by either party when delivered in person or by courier, or when mailed by United States registered or certified mail with proper postage prepaid, or by cable, telefax, telegram or telex to LICENSOR, if intended for it, at the address for payment of rent designated by LICENSOR from time to time by notice to LICENSEE or to LICENSEE, if intended for it, at the address set forth on the first page of this License to the attention of the Vice President - Network Operations, with a required copy to SOUTHWESTERN BELL MOBILE SYSTEMS, INC. d/b/a LICENSEE-Chicago, 930 N. National Parkway, Schaumburg, Illinois 60173, Attn: Legal Department. Either party hereto may change the place for notice to it by sending like written notice to the other party hereto.

12. This License is fully assignable by LICENSEE at any time without the consent of LICENSOR to an affiliated person or entity or to a subsidiary of LICENSEE, or to a successor of the primary business of LICENSEE, provided that LICENSEE shall serve notice of such assignment as soon as practicable in accordance with Section 11 of this Agreement. Any other assignment shall require the prior written approval of LICENSOR, such consent not to be unreasonably withheld or delayed.

13. A. If either party shall default in the performance of any its obligations herein contained and such default shall continue for thirty (30) days after written notice thereof is received by such defaulting party (provided however, that if the default reasonably cannot be cured within thirty (30) days, then said thirty (30) day period shall be extended for such additional time as is reasonably necessary to cure such default), then, in addition to any other remedies at law or in equity available to the non-defaulting party, upon fifteen (15) days' prior written notice to the other party, the non-defaulting party may either (i) terminate this Agreement or (ii) cure such default or take action to reverse the effect of the defaulting party's action, all for the account and at the expense of the defaulting party. Any expenses incurred by the non-defaulting party in connection with curing any such default, shall be paid by the defaulting party to the non-defaulting party upon demand.

B. If any suit or action is brought to enforce or declare any of the terms of this Agreement, or to recover possession of the Premises, the party not prevailing in such suit or action shall be liable to the prevailing party for the prevailing party's costs and expenses, including, without limitation, court costs, reasonable attorneys' fees and expert witnesses' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

14. LICENSEE shall conduct its operations at the Site and control its agents, employees, contractors and invitees in such manner so as not to create any nuisance, or interfere with, annoy or disturb any use of the Parcel by LICENSOR, any other permitted user, occupant or invitee on the Parcel.

15. Each party hereto represents and warrants that it has full power and authority to enter into this License and to perform the covenants and obligations herein contained.

16. A. LICENSOR represents and warrants that to the best of its knowledge and belief no litigation or governmental, administrative, or regulatory proceeding is pending, proposed or threatened with respect to the Premises, including, without limitation, claims of third parties, or claims relating to environmental matters. If (A)(i) the presence of Hazardous Substances in or about the Premises, which existed on or prior to

the date hereof, results in contamination of the Premises, or (ii) or if contamination of the Premises by any Hazardous Substances otherwise occurs for which LICENSOR is otherwise legally responsible, and (B) any federal, state or local governmental authority deems or determines that LICENSEE is responsible to effect any clean-up, remediation, removal or restoration work in connection therewith, LICENSOR shall indemnify, hold harmless and, at LICENSEE's option, defend LICENSEE, and its employees, affiliates, officers and directors from and against any and all claims, demands, expenses (including reasonable attorneys' fees), costs, fines, penalties and other liabilities of any and every kind and nature because of the presence of any such Hazardous Substances on or about the Premises; provided, however, that this indemnification shall not apply to the extent LICENSEE or its equipment causes any such environmental occurrence. The term "Hazardous Substances" means any hazardous, toxic or waste material that is or becomes regulated by any applicable federal, state or local law, ordinance, regulation or any other governmental requirement dealing with matters relating to the environment and/or contamination of any type whatsoever.

B. LICENSEE shall not cause or permit any Hazardous Substances to be brought upon, kept, stored or used in or about the Site by LICENSEE, except that LICENSEE shall be permitted to use batteries for emergency power for LICENSEE's Equipment. If the presence of Hazardous Substances brought upon, kept, stored or used in or about the Site by LICENSEE in violation of this paragraph 16B results in contamination of the Site, LICENSEE shall indemnify, hold harmless and, at LICENSOR's option, defend LICENSOR, and its employees, affiliates, officers and directors from and against any and all claims, demands, expenses (including reasonable attorneys' fees), costs, fines, penalties and other liabilities of any and every kind and nature including, but not limited to, costs and expenses incurred in connection with any clean-up, remediation, removal or restoration work required by any federal, state or local governmental authority because of the presence of any such Hazardous Substances on or about the Site due to LICENSEE's fault; provided, however, that this indemnification shall not apply to the extent LICENSOR causes any such environmental occurrence.

17. During the Term and any Extended Terms, LICENSEE shall, at its expense, obtain liability insurance issued by a company or companies authorized to do business in Illinois, providing coverage in limits of at least \$1,000,000.00, in the event of bodily injury or death, or property damage, or both, as a result of any one accident or occurrence on the Sites. The said insurance coverage shall be primary as respects the Village, its officers, officials, employees, and agents, and shall state that it shall apply separately to each insured against whom claim is made or suit is brought (except with respect to the insurer's

liability). Any insurance or self-insurance maintained by the Village, its officers, officials, employees, volunteers and agents shall be in excess of CELLULAR ONE's insurance and shall not contribute to it. LICENSEE shall send a certificate therefor to LICENSOR on or before the Commencement Date in connection with each Site, and it is agreed that each such Certificate shall contain an Endorsement in the form attached hereto as Exhibit "B." The Village, its agents, officials and employees shall be named as additional insured on the policies of the Village for such coverage. Each policy providing coverage shall include the following endorsements:

- A. The Village of Lombard, its agents, officials and employees are additional insureds;
- B. The coverage provided herein shall be noncontributory as to the city, its agents, officials and employees; and
- C. No cancellation, termination or material modification of the coverage shall be effective without thirty (30) days' prior written notice having been given to the Village.

18. In any case where the approval or consent of LICENSOR is required, requested or otherwise to be given under this License, an approval or consent by LICENSOR's Village Manager, or his designee shall be sufficient, and LICENSEE may rely upon any such approval or consent. In any case where the approval or consent of LICENSOR is required under this License, LICENSOR shall not unreasonably delay or withhold its approval or consent.

19. This License supersedes all prior agreements and understandings, both written and oral, of the parties with respect to the subject matter hereof. This License may be executed in any number of counterparts, and by the different parties on different counterparts, each of which when executed shall be deemed an original, and all of which together shall constitute one and the same agreement. If any clause, phrase, provision or portion of this License or the application thereof to any person or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this License, nor shall it affect the application of any other clause, phrase, provision or portion hereof to other persons or circumstances. Changes in the number, gender and grammar of terms and phrases herein, when necessary to conform this License to the circumstances of the parties hereto, shall, in all cases, be assumed as though in each case fully expressed herein. This License shall be construed in accordance with the laws of the State of Illinois. The parties agree that venue shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit,

DuPage County, Illinois.

20. LICENSEE acknowledges that the sites are exempt from real estate property taxes. In the event the existence of this agreement and/or the license granted herein results in the full or partial loss of such exemption, LICENSEE agrees to pay to LICENSOR an amount equal to such taxes prior to the due date therefor for each tax year this Agreement remains in effect, including any and all extended Terms. Notwithstanding the foregoing, in the event any such taxes are assessed to LICENSOR as a result of the installation of LICENSEE's Equipment at the Site, LICENSEE shall have the right, at LICENSEE's expense, to contest the amount and validity, in whole or in part, of any such taxes by appropriate proceedings diligently conducted and LICENSOR agrees to cooperate with LICENSEE in this regard. In the event LICENSEE's liability for such taxes exceeds the sum of \$500.00 for any tax year, LICENSEE may, at LICENSEE's sole option, terminate this Agreement, at which time LICENSEE's obligation to pay rent hereunder will cease, and LICENSEE shall remove its Equipment and restore the Site pursuant to the provisions contained in paragraph 8 hereof.

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

LICENSOR

LICENSEE

THE VILLAGE OF LOMBARD

SOUTHWESTERN BELL MOBILE
SYSTEMS, INC. d/b/a
LICENSEE - Chicago

By: 

By: 

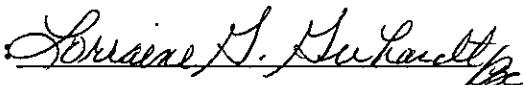
Name: William J. Mueller

Name: Deborah Shall-Gerber

Title: Village President

Title: Sr. Project Administrator

Attest:

By: 

Name: Lorraine G. Gerhardt

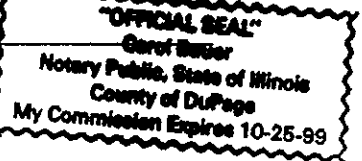
Title: Village Clerk

NOTARY ACKNOWLEDGEMENT FOR LICENSOR

STATE OF Illinois)
COUNTY OF DuPage) SS

I, the undersigned, a Notary Public in and for the said County and State aforesaid DO HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 13th day of January, 1996 by William J. Mueller and Lorraine G. Gerhardt, personally known to me to be a/the Village President and a/the Village Clerk, respectively, of The Village of Lombard, a municipal corporation, organized and existing under the laws of the State of Illinois, on behalf of the Village.

Carol Bauer
NOTARY PUBLIC

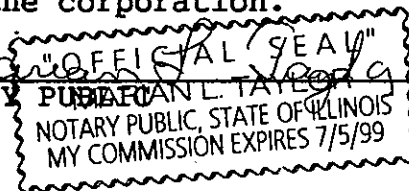


NOTARY ACKNOWLEDGEMENT FOR LICENSEE

STATE OF ILLINOIS)
COUNTY OF COOK) SS

I, the undersigned, a Notary Public in and for the said County and State aforesaid DO HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 10th day of February, 1996, by DEBORAH SHALL-GERBER, personally known to me to be Supervision Network Expansion of SOUTHWESTERN BELL MOBILE SYSTEMS, INC. d/b/a CELLULAR ONE - Chicago, a Delaware and Virginia corporation on behalf of the corporation.

Marianne L. Taylor
NOTARY PUBLIC



RESOLUTION
R _____ 07

**A RESOLUTION AUTHORIZING SIGNATURES OF
PRESIDENT AND CLERK ON A
RELEASE AND SETTLEMENT AGREEMENT**

WHEREAS, the Corporate Authorities of the Village of Lombard have received a Release and Settlement Agreement from New Cingular Wireless PCS, LLC, (as successor in interest to AT&T Wireless PCS, Inc., a Delaware corporation, by and through its agent AT&T Wireless Services, Inc., a Delaware corporation, or one of its subsidiaries or affiliates) (hereinafter "Cingular") attached as Exhibit A; and

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said Agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said Agreement as attached hereto

Adopted this ____ day of _____, 2007.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2007.

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

RELEASE AND SETTLEMENT AGREEMENT

THIS AGREEMENT, made effective this 15th day of February, 2007 (hereinafter "Agreement") by and between New Cingular Wireless PCS, LLC, (as successor in interest to AT&T Wireless PCS, Inc., a Delaware corporation, by and through its agent AT&T Wireless Services, Inc., a Delaware corporation, or one of its subsidiaries or affiliates) (hereinafter "Cingular") and the undersigned owners of Village of Lombard an Illinois Municipal Corporation, 255 East Wilson, Lombard, IL 60148 (hereinafter "Owner"), is as follows:

WITNESSETH:

WHEREAS, on or about February 12, 1996 Owner & Cingular entered into a Lease Agreement ("Lease") which, upon termination by Cingular required restoration of the leased area ("Premises") to its general condition prior to lease commencement, reasonable wear & tear excepted; and

WHEREAS, Owner & Cingular have agreed that Owner shall accept Cingular's termination of Lease effective February 15th 2007. Notwithstanding the terms and conditions of the Lease, the restoration of the Premises will require Cingular's removal of only those items not depicted or listed on the attached Exhibit A, and the remaining assets specified therein will transfer to Owner's ownership and control, consistent with the terms and conditions of this Agreement; and

WHEREAS, as consideration for Owner's agreement to the terms and conditions described herein, Cingular agrees to pay the amount of Two Hundred Dollars and 00 Cents (\$200.00) ("Fee"), payable within sixty (60) days of the execution of this Agreement, which amount is accepted by Owner and is agreed by both Owner and Cingular to be full consideration for Cingular not having to remove certain of its improvements to the premises, all improvements transferred to Owner; and

WHEREAS, as consideration for Owner's agreement to the terms and conditions described herein, Cingular agrees to pay the amount of Twenty Five Thousand Dollars and 00 Cents (\$30,000) ("Future Rent Fee"), payable within sixty (60) days of the execution of this Agreement, which amount is accepted by Owner and is agreed by both Owner and Cingular to be full consideration for all monthly rental payments owed the Owner; and

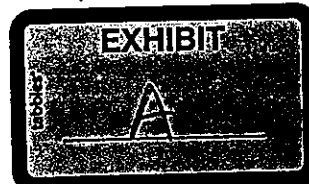
WHEREAS, as part of this Agreement, Owner agrees to execute the completion acknowledgment form as attached hereto and incorporated herein Exhibit B, provided that Cingular has met its obligations as set forth herein. Owner agrees that Owner's failure to sign the Exhibit B shall not permit it to contest the terms and conditions of this Agreement or add additional requirements, provided Cingular has met its obligations as set forth herein; and

WHEREAS, Owner and Cingular agree that Cingular or Owner may record the Memorandum of Release of Lease ("Memo"), as attached hereto and incorporated herein as Exhibit C; and

NOW THEREFORE, for the valuable consideration recited herein, the receipt and sufficiency of which is hereby acknowledged hereto by the undersigned, the parties agree as follows:

1. Recitals. The recitals set forth above are incorporated herein as set forth in their entirety.

2. Release. Owner, in consideration of the terms specified in this Agreement and payment of the Improvements and future rent Fee, releases and forever discharges Cingular, their agents, administrators, assigns, contractors and subcontractors, from any and all claims, demands, damages, actions, causes of action or suits of any kind or nature whatsoever in connection with or on account of any expected workmanship or durability of the restoration of improvements as outlined herein that it may have, individually or jointly with another party, including but not limited to claims for attorneys' fees related to, or arising in any way from, any acts or omissions of Cingular in connection therewith ("Claims"). This release is intended to be general in



nature. All obligations under the Lease will cease and neither party shall have any obligations to the other except for those terms related to the environmental condition of the property which by its express terms survive the termination or expiration of the Lease. Owner expressly waives any and all laws or statutes, of any jurisdiction whatsoever, which may provide that a general release does not extend to Claims not known or suspected to exist at the time of execution or the release, or those which if known would have materially affected the decision to give said release.

3. Memo of Release. Each party agrees that the execution of this Agreement authorizes Cingular or Owner to file the Memo within the applicable county in which the Premises is located. Each party agrees to reasonably assist the other party to execute and record the Memo.

4. Transfer of Assets. For and in consideration of the good and valuable consideration described herein, Cingular hereby CONVEYS, GRANTS, SELLS, TRANSFERS AND ASSIGNS its existing improvements at the Premises ("Transferred Assets"), as more particularly described in Exhibit A, to Owner effective February 15, 2007 ("Termination Effective Date"). Cingular makes no warranties regarding the Transferred Assets. Owner agrees to accept the Transferred Assets as is, where is, without any warranty of merchantability or fitness for any purpose whatsoever. Cingular warrants that it owns the Transferred Assets at the time of transfer and that such are conveyed to Owner free of all liens and encumbrances. Notwithstanding this disclaimer of warranties, Cingular will endeavor to pass through to Owner any existing manufacturers' warranties on the Transferred Assets to the extent the same are reasonably transferable. Owner and Cingular agree and acknowledge that no separate bill of sale is needed.

Owner and Cingular acknowledge that it is Cingular's intent to herein convey to Owner, Cingular's entire right, title and interest in and to the Transferred Assets and that if, despite Cingular's good faith efforts to describe such Transferred Assets herein in their entirety, there are errors, omissions or discrepancies in such description, Cingular will execute and deliver any instrument reasonably necessary to remedy or correct such, and, on condition that Cingular does so, such errors, omissions or discrepancies will not constitute a breach by Cingular of this Agreement. Notwithstanding the above, Cingular reserves the right to remove its personal property prior to the Termination Effective Date.

5. Authority. This Agreement constitutes a valid and legally binding obligation of each party executing this Agreement. The execution of this Agreement, and the transactions and performance contemplated hereby, has been duly authorized by the requisite action on the part of each party. Each person signing this Agreement represents and warrants that it has full authority to execute the Agreement on behalf of, and to bind to the Agreement, the party on whose behalf they are signing.

6. Entire Agreement This Agreement constitutes the entire agreement among the parties hereto, and there are no agreements, understandings, warranties, or representations with respect to the matters set forth herein except as specifically delineated herein. This instrument is not intended to have any legal effect, or to be a legally binding agreement, or any evidence thereof, until it has been signed by each of the parties hereto and all conditions to effectiveness have been satisfied.

7. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns. This Agreement is made for the benefit of Cingular and Owner and all who succeed to the rights and responsibilities of them, including without limitation, their successors and assigns.

8. Authority of Law. This Agreement shall be interpreted under the laws of the State where the Premises are located.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Market: Central Region - IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

IN WITNESS WHEREOF, the parties have executed the Agreement as of the date last set forth below:

CINGULAR: New Cingular Wireless PCS, LLC,

By: _____
Print Name: Scott A. Root
Its: Real Estate and Construction Manager, IL/WI
Date: _____

OWNER: Village of Lombard an Illinois Municipal Corporation

By: _____
Print Name: _____
Its: _____
Date: _____

STATE OF ILLINOIS)

) ss:
COUNTY OF _____)

On the ____ day of _____, 2007, before me personally appeared Scott A. Root, and acknowledged under oath that he is the Real Estate and Construction Manager, IL/WI of New Cingular Wireless LLC, successor in interest to AT&T Wireless Services, Inc., the Delaware corporation that executed the within and foregoing instrument (the "Corporation"), and acknowledged the said instrument to be the free and voluntary act and deed of the Corporation, and on oath stated that he was authorized to execute said instrument on behalf of the Corporation.

Notary Public

My Commission Expires: _____

OWNER ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

BE IT REMEMBERED, that on this ____ day of _____, 2007 before me, the subscriber, a person authorized to take oaths in the State of _____, personally appeared _____ who, being duly sworn on his/her/their oath, deposed and made proof to my satisfaction that he/she/they is/are the person(s) named in the within instrument; and I, having first made known to him/her/them the contents thereof, he/she/they did acknowledge that he/she/they signed, sealed and delivered the same as his/her/their voluntary act and deed for the purposes therein contained.

Notary Public

My Commission Expires: _____

Market: Central Region - IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

EXHIBIT A

Cell Site name & number: IL5045-E045-Lombard Well #11_

Leasehold Address: 1778 Springer Drive, Lombard, IL 60148

Landlord name: Village of Lombard an Illinois Municipal Corporation

Cingular name on lease Southwestern Bell Mobile Systems, Inc. d/b/a CELLULAR ONE-CHICAGO

Market: Central Region -- IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

EXHIBIT B

Cell Site name & number: IL5045-E045-Lombard Well #11_

Leasehold Address: 255 East Wilson, Lombard, IL, 60148

Landlord name: Village of Lombard an Illinois Municipal Corporation

Cingular name on lease Southwestern Bell Mobile Systems, Inc. d/b/a CELLULAR ONE-CHICAGO

By execution of this Exhibit B to the Agreement of which this is part, Owner acknowledges and agrees that Cingular has met its removal obligations under the Agreement and Owner accepts the Premises in their current condition with the Transferred Assets remaining at the Premises. Owner acknowledges that Cingular's work at the Premises is complete and to its satisfaction and that Cingular has met the terms and conditions of the Agreement.

LANDLORD: Village of Lombard an Illinois Municipal Corporation

By: _____
Print Name: _____
Its: _____
Date: _____

Market: Central Region - IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

**EXHIBIT C
TERMINATION OF MEMORANDUM OF LEASE**

Prepared by:

Riley and Associates
7600 County Line Road
Burr Ridge, Illinois 60521
(630) 789-1900 Main Number

Return to:

Riley and Associates
7600 County Line Road
Burr Ridge, Illinois 60521
(630) 789-1900 Main Number
Attn: Leasing Department

State: _____
County: _____
APN: _____

THIS TERMINATION OF MEMORANDUM OF LEASE ("Termination") is made as of this ____ day of _____, 2007 by and between Village of Lombard ("Owner"), and New Cingular Wireless PCS, LLC ("Cingular").

BACKGROUND

On February 12, 1996 Owner and Cingular entered into a certain [Option and] Lease Agreement ("Lease") with respect to certain real property located at 1778 Springer Drive, Lombard, IL 60148 ("Premises"), as more particularly described in a Memorandum of [Option and] Lease ("Memorandum") that was recorded in the Clerk's Office of DuPage County, Illinois on _____, 20__ as document number _____.

Owner and Cingular enter into this Termination to evidence the termination, cancellation and discharge of the Lease and Memorandum.

Cingular does hereby REMISE and RELEASE unto Owner all the real estate described in the attached Exhibit A.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances thereto belonging free, clear and discharged from the encumbrance of said Memorandum.

NOW, THEREFORE, intending to be legally bound, Owner and Cingular hereby declare, for themselves and all who succeed to their respective interests, that the Memorandum is terminated, canceled and discharged and is of no further force or effect. This Termination is effective upon submission for recording at the Recorders Office of the County in which the Premises is located.

Market: Central Region - IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

IN WITNESS WHEREOF, Owner and Cingular have executed this Termination as of the date first above written.

CINGULAR: New Cingular Wireless PCS, LLC,

By: _____
Print Name: Scott A. Root
Its: Real Estate and Construction Manager, IL/WI
Date: _____

OWNER: Village of Lombard an Illinois Municipal corporation

By: _____
Print Name: _____
Its: _____
Date: _____

STATE OF ILLINOIS)

COUNTY OF _____) ss:

On the _____ day of _____, 2007, before me personally appeared Scott A. Root, and acknowledged under oath that he is the Real Estate and Construction Manager, IL/WI of New Cingular Wireless LLC, successor in interest to AT&T Wireless Services, Inc., the Delaware corporation that executed the within and foregoing instrument (the "Corporation"), and acknowledged the said instrument to be the free and voluntary act and deed of the Corporation, and on oath stated that he was authorized to execute said instrument on behalf of the Corporation.

Notary Public

My Commission Expires: _____

OWNER ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss:

BE IT REMEMBERED, that on this _____ day of _____, 2007 before me, the subscriber, a person authorized to take oaths in the State of _____, personally appeared _____ who, being duly sworn on his/her/their oath, deposed and made proof to my satisfaction that he/she/they is/are the person(s) named in the within instrument; and I, having first made known to him/her/them the contents thereof, he/she/they did acknowledge that he/she/they signed, sealed and delivered the same as his/her/their voluntary act and deed for the purposes therein contained.

Notary Public

My Commission Expires: _____

Market: Central Region - IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

EXHIBIT A

Cell Site name & number: IL5045-E045-Lombard Well #11_

Leasehold Address: 1778 Springer Drive, Lombard, IL 60148

Landlord name: Village of Lombard an Illinois Municipal Corporation

Cingular name on lease Southwestern Bell Mobile Systems, Inc. d/b/a CELLULAR ONE-CHICAGO

PAYMENT DIRECTION FORM

Market: Central Region - IL/WI
Cell Site FA Code: 10005676

Cell Site Number: IL5045
Cell Site Name: E045-Lombard Well #11

NEW ☐ CHANGE ☐ W-9 OR 480 CERTIFICATE ENCLOSED ☐

CINGULAR SITE NUMBER: IL5045	MARKET: Central Region - IL/WI
CINGULAR SITE NAME: E045-LOMBARD WELL #11	
SITE ADDRESS: 1778 SPRINGER DRIVE, LOMBARD, IL 60148	

LESSOR NAME: *VILLAGE OF LOMBARD AN ILLINOIS MUNICIPAL CORPORATION
PAYEE NAME: ** VILLAGE OF LOMBARD AN ILLINOIS MUNICIPAL CORPORATION
PAYMENT ADDRESS: 255 EAST WILSON LOMBARD, IL 60148
LESSOR PHONE/FAX NUMBER: 630-620-5756
PREVIOUS MANAGEMENT COMPANY: (if applicable)
LESSOR/PAYEE PAYMENT SHARE: *** _____ %

- * Lessor Name should be exactly as state in Lease/License
** to be completed if rent payee is other than Lessor as stated in Lease/License
*** percentage of rent payment to be paid to Lessor/Payee named herein

I hereby authorize Cingular Wireless and/or its subsidiaries to make all rent payments and other payments relating to the site named above to the Lessor/Payee and Payment Address listed above (subject to the Lessor/Payee Payment Share listed above). I further acknowledge and agree that the Lessor Payment Share listed above is correct.

This authorization shall remain in effect until I have cancelled it in writing in as much time as to afford you a reasonable time to act upon it.

LESSOR AUTHORIZED SIGNATURE _____	TITLE _____	DATE _____
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LESSOR AUTHORIZED SIGNATURE _____	TITLE _____	DATE _____
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Return To:
Cingular Wireless
Network Real Estate Contracting
Mail Code GAN 02
6100 Atlantic Blvd.
Norcross GA 30071

Payment Direction Form (01/14/03)

PRIVATE/PROPRIETARY

Form W-9 (Rev. January 2002) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification		Give form to the requester. Do not send to the IRS.
	Name _____		
	Business name, if different from above _____		
	Check appropriate box: <input type="checkbox"/> Individual? Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other <input type="checkbox"/> Exempt from backup withholding		
	Address number, street, and apt. or suite no. _____ City, state, and ZIP code _____ List account number(s) here (optional) _____		Requester's name and address (optional) _____

Part I Taxpayer Identification Number (TIN)
Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2. Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.
Social security number _____ or Employer identification number _____

Part II Certification
Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. person (including a U.S. resident alien). Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)
Sign Here _____ Signature of U.S. person _____ Date _____

Purpose of Form
A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify the TIN you are giving is correct for you are waiting for a number to be issued.
2. Certify you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

If you are a foreign person, use the appropriate Form W-8. See Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

What is backup withholding? Persons making certain payments to you must either certain conditions withheld and pay to the IRS 30% of such payments after December 31, 2001 (25% after December 31, 2003). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 2 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

3. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions on page 2 and the separate instructions for the requester of Form W-9.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Abuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.