

**Meeting Date:** 3/15/2016

**Report Type:** Consent

**Report ID:** 2016-00191

**Title:** Third Amendment to Revocable Permit Agreement for Telecommunications Equipment at the Sacramento Convention Center

**Location:** 1030 15th Street, District 3

**Recommendation:** Pass a Resolution authorizing the City Manager or the City Manager's designee to execute the Third Amendment to Revocable Permit Agreement for the Sacramento Convention Center (City Agreement No. 96-011), and any other documents necessary to implement the amendment, with New Cingular Wireless PCS, LLC for five years with four five-year renewal options for the operation and maintenance of telecommunications equipment.

**Contact:** Ken Hancock, Real Property Agent III, (916) 808-5752, Department of Public Works

**Presenter:** None

**Department:** Public Works Department

**Division:** Real Estate/Asset Management

**Dept ID:** 15004551

**Attachments:**

- 1-Description/Analysis
- 2-Resolution
- 3-Agreement

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### **City Attorney Review**

Approved as to Form  
Maila Hansen  
3/8/2016 9:58:21 AM

### **Approvals/Acknowledgements**

Department Director or Designee: Jerry Way - 2/25/2016 3:11:05 PM

## Description/Analysis

**Issue Detail:** City Agreement No. 96-011 (Agreement) was executed on January 9, 1996, by the City and Sacramento Cellular Telephone Company for the operation and maintenance of telecommunications equipment at the Sacramento Convention Center. Sacramento Cellular Telephone Company became New Cingular Wireless PCS, LLC (Permittee) through a series of mergers and acquisitions. The recommended amendment to the Agreement will extend the term for five years with three five-year renewal options.

**Policy Considerations:** The recommendation in this report is in accordance with City Code Chapter 3.76 and the Sacramento General Plan regarding telecommunication infrastructure.

**Economic Impacts:** None

### Environmental Considerations:

**California Environmental Quality Act (CEQA):** No environmental review is necessary because the recommendation in this report involves a continuing administrative activity and is not considered to be a project in accordance with Section 15378(b)(2) of the CEQA Guidelines.

**Sustainability:** Not applicable

**Commission/Committee Action:** None

**Rationale for Recommendation:** Executing the recommended amendment to the Agreement will allow the Permittee to continue providing telecommunications coverage at the Sacramento Convention Center.

The following table provides information about the prior amendments:

Amendment No.	Date	Purpose
First	10/20/2000	Install cellular transmit/receive station
Second	7/15/2010	Minor equipment modification

**Financial Considerations:** There are no annual revenues associated with the Agreement because it provides improved cellular telephone service within the Sacramento Convention Center, and consequently, is considered a benefit to the City and the community at large. The recommended amendment includes an initial term of five years with three five-year renewal options.

**Local Business Enterprise (LBE):** Not applicable

## **RESOLUTION NO. 2016-**

Adopted by the Sacramento City Council

March 15, 2016

### **AUTHORIZING A THIRD AMENDMENT TO REVOCABLE PERMIT AGREEMENT FOR TELECOMMUNICATIONS EQUIPMENT AT THE SACRAMENTO CONVENTION CENTER**

#### **BACKGROUND**

- A. City Agreement No. 96-011 (Agreement) was executed on January 9, 1996 by the City and Sacramento Cellular Telephone Company for the operation and maintenance of telecommunications equipment at the Sacramento Convention Center. Sacramento Cellular Telephone Company became New Cingular Wireless PCS, LLC through a series of mergers and acquisitions.
- B. The recommendation in this report is in accordance with City Code Chapter 3.76 regarding revocable permits, and the Sacramento General Plan regarding telecommunication infrastructure.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. The City Manager or City Manager's designee is authorized to execute the Third Amendment to Revocable Permit Agreement for the Sacramento Convention Center (City Agreement No. 96-011), and any other documents necessary to implement the amendment, with New Cingular Wireless PCS, LLC for five years with three five-year renewal options for the operation and maintenance of telecommunications equipment.

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Exhibit A – Third Amendment to Revocable Permit Agreement

**THIRD AMENDMENT TO REVOCABLE PERMIT AGREEMENT  
FOR CONVENTION CENTER**

WHEREAS, **Sacramento Cellular Telephone Company** and the City of Sacramento, a municipal corporation ("City"), previously entered into a Revocable Permit for use of a certain portion of the **SACRAMENTO CONVENTION CENTER** – 1030 15<sup>th</sup> Street, Sacramento, CA 95814, dated January 9, 1996, and identified as City Agreement No. **96-011** (the "Revocable Permit"); and

WHEREAS, New Cingular Wireless PCS, LLC, a Delaware limited liability company ("New Cingular Wireless"), was formerly known as AT&T Wireless Services of California, LLC, and AT&T Wireless Services of California, LLC, was the successor in interest to Sacramento Cellular Telephone Company, and New Cingular Wireless has assumed all of the rights and obligations of City Agreement No. 96-011, and the First Amendment to Revocable Permit Agreement, dated October 20, 2000, further identified as City Agreement No. 96-011-1, and the Second Amendment to Revocable Permit Agreement, dated July 15, 2010, further identified as City Agreement No. 96-011-2; and

WHEREAS, Sacramento Cellular Telephone Company and New Cingular Wireless shall hereafter be referred to collectively and singularly as the Permittee; and

WHEREAS, the Revocable Permit had an initial term that commenced on November 1, 1995 and expired on October 31, 2005; and

WHEREAS, on August 23, 2005, Permittee exercised its option to extend the Revocable Permit for its one (1) extension of ten (10) years, commencing on November 1, 2005. According to the Revocable Permit, the extension was to expire on October 31, 2015; and

WHEREAS, since November 1, 2015, the Revocable Permit has been in a holdover period, wherein Permittee has continued to adhere to the terms of the Revocable Permit with the understanding that Permittee and City would work in good faith to amend the Revocable Permit to extend Permittee's term; and

WHEREAS, Permittee and the City of Sacramento desire to further amend the Revocable Permit as provided herein.

NOW THEREFORE,

- 1) Except as specifically provided herein, all terms and conditions of the Revocable Permit identified as City Agreement No. 96-011, 96-011-1 and 96-011-2 shall remain in full force and effect.

THIRD AMENDMENT TO REVOCABLE PERMIT  
SACRAMENTO CONVENTION CENTER

- 2) Pursuant to Paragraph 5(c) of the Revocable Permit, Permittee shall continue to maintain and operate its facilities in a manner that does not interfere with City's communications systems.

- 3) Paragraph 3(b) of the Revocable Permit is hereby deleted and the following is inserted in its place:

Permittee shall have the right to renew the Revocable Permit for an additional ten (10) year term (the "Ten-Year Renewal Term"), followed by four (4) additional terms of five (5) years each (each a "Five-Year Renewal Term"). The Revocable Permit shall automatically be extended for each successive Five-Year Renewal Term unless Permittee notifies the City of its intention not to renew at least ninety (90) days prior to the expiration of the then-current Five-Year Renewal Term.

The City and Permittee hereby acknowledge that Permittee has exercised the Ten-Year Renewal Term and by this Third Amendment, is exercising its first Five-Year Renewal Term, leaving a balance of three (3) Five-Year Renewal Terms, with the final Five-Year Renewal expiring on October 31, 2035.

- 4) Paragraph 7 of the Revocable Permit is amended to add subsection (e), which shall read as follows:

e. If development or construction is requested by Permittee and approved by City, the City will reasonably cooperate in executing, at Permittee's sole cost and expense, all documents required by any governmental authority in connection with any development of, or construction on, the premises, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Permittee in Permittee's absolute discretion to utilize the premises for the purpose of constructing, maintaining and operating communications facilities, including without limitation, tower structures, antenna support structures, cabinets, meter boards, buildings, antennas, cables, equipment and uses incidental thereto.

- 5) a) The City and Permittee agree that Permittee is the current permittee under the Revocable Permit, the Revocable Permit is in full force and effect, as amended herein, and the Revocable Permit along with the three amendments contain the entire agreement between the City and Permittee with respect to the premises.

b) The City agrees that any and all actions or inactions that have occurred or should have occurred prior to the date of this Third Amendment are approved

THIRD AMENDMENT TO REVOCABLE PERMIT  
SACRAMENTO CONVENTION CENTER

and ratified and that no breaches or defaults exist as of the date of this Third Amendment.

c) The City represents and warrants that the City is duly authorized and has the full power, right and authority to enter into this Third Amendment and to perform all of its obligations under the Revocable Permit as amended.

- 6) The following addresses are to replace those listed in Section 13 of the Revocable Permit:

City:

City of Sacramento  
Facilities and Real Property Management  
Attn: Telecom Program Manager  
915 "I" Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

Permittee:

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Cell Site #: CNU1515  
Search Ring Name: CONVENTION CENTER  
Cell Site Name: CONVENTION CENTER  
Fixed Asset No: 10090728  
575 Morosgo Drive  
Atlanta, GA 30324

With a copy to AT&T Legal Department:

New Cingular Wireless PCS, LLC  
Attn: AT&T Legal Department  
Re: Cell Site #: CNU1515  
Search Ring Name: CONVENTION CENTER  
Cell Site Name: CONVENTION CENTER  
Fixed Asset No: 10090728  
208 S. Akard Street  
Dallas, Texas 75202-4206

- 7) The parties hereto acknowledge that except as expressly modified hereby, the Revocable Permit remains unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms of this Third Amendment and the Revocable Permit, the terms of this Third Amendment shall control. This Third Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

THIRD AMENDMENT TO REVOCABLE PERMIT  
SACRAMENTO CONVENTION CENTER

IN WITNESS WHEREOF, Permittee and the City of Sacramento have executed this  
Third Amendment as of \_\_\_\_\_, 20\_\_\_\_\_.

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company,  
By: AT&T Mobility Corporation  
Its: Manager

By:   
Print Name: Michael Guilford  
Title: Director  
Construction & Engineering  
Dated: 1/7/2016

City of Sacramento,  
a municipal corporation

By: \_\_\_\_\_  
Print Name: John Dangberg  
Title: Assistant City Manager  
For: John F. Shirey, City Manager

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

By: 

ATTEST:

By: \_\_\_\_\_  
City Clerk