

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
APRIL 17, 2012 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
First Amendment and Restatement to License Agreements with AT&T	✓ Resolution Ordinance Motion Discussion Only	Enza Petrarca Village Attorney

SYNOPSIS

Resolutions have been prepared authorizing approval of a First Amendment and Restatement to License Agreements with AT&T to maintain and operate an antenna on Village Property located at 801 Burlington Avenue and 2304 Maple Avenue.

STRATEGIC PLAN ALIGNMENT

The goals for 2011 to 2018 identified *Steward of Financial and Environmental Sustainability*.

FISCAL IMPACT

The proposed agreements are for an additional two (2) five year terms, which would begin upon the end of their existing license agreement. Approval of the proposed agreements would result in the Village collecting \$4,000 in monthly license fees for 2013, with a four percent increase in each year thereafter until December 31, 2023.

RECOMMENDATION

Approval on the April 17, 2012 consent agenda.

BACKGROUND

AT&T is a provider of digital communications in the Chicagoland area. In 1998 & 1999 (see Resolutions 98-42 and 99-3, attached), the Village Council approved license agreements with AT&T for the installation, maintenance and operation of antenna on Village property located at 801 Burlington and 2304 Maple, respectively. These existing agreements are due to expire on August 13, 2013 and February 28, 2014. AT&T contacted the Village concerning its desire to renew the antenna agreements well in advance of the expiration of the current agreements. This first amendment provides for the extension to the term of the agreement and revises the compensation, tax payment and subletting provisions of the existing agreement.

The proposed first amendment will add two additional five (5) year terms, commencing upon the end of the current leases and would conclude on December 31, 2023. Approval of the proposed agreement beginning November 1, 2013 would result in the Village collecting \$4,000 in monthly license fees with a four percent increase in each year thereafter until December 31, 2023. The Village will again have the option of renewing the license agreement for two additional five year terms at the conclusion of the first amendments.

ATTACHMENTS

- Resolutions
- Agreements
- Resolution 98-42 and 99-3

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT
AND RESTATEMENT TO LICENSE AGREEMENT**

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

1. That the form and substance of a certain Agreement (“Agreement”), between the between the Village of Downers Grove (“Village”) and New Cingular Wireless, PC, LLC k/n/a AT&T Mobility (“Licensee”) for a first amendment to license agreement for the maintenance and operation of antenna equipment on Village property located at 801 Burlington Avenue, Downers Grove, IL, as set forth in the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

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

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

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

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

Mayor

Passed:

Attest: _____
Village Clerk

**FIRST AMENDMENT & RESTATEMENT
TO LICENSE AGREEMENT**

THIS FIRST AMENDMENT & RESTATEMENT TO LICENSE AGREEMENT ("First Amendment"), dated as of the later of the signature dates below, is by and between the **Village of Downers Grove**, an Illinois municipal corporation, having a mailing address of 801 Burlington Avenue, Downers Grove, Illinois 60515 (hereinafter referred to as "Village") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, successor in interest to AT&T Wireless PCS, Inc. k/n/a AT&T Mobility, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "Licensee").

WHEREAS, Village and Licensee entered into a License Agreement entitled "LICENSE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND AT&T WIRELESS PCS TO INSTALL, MAINTAIN AND OPERATE AN ANTENNA AND ACCESSORY BUILDING ON PUBLIC PROPERTY IN CONJUNCTION WITH ITS CELLULAR TELEPHONE SERVICES" dated July 13, 1998 (along with Resolution 98-42), copies of which are attached hereto, whereby Village leased to Licensee certain Premises, therein described, that are a portion of the Property located at 801 Burlington Avenue, Downers Grove, Illinois (the "Agreement"); and

WHEREAS, Village and Licensee desire to amend the Agreement to provide that the term of the Agreement shall be restated, extended and to confirm compensation amounts and tax payment responsibility; and

WHEREAS, Village and Licensee also desire to amend the Agreement to provide that any notice or communication shall be sent to the Landlord at its current address and to Licensee at its current address.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Village and Licensee agree as follows:

1. "Section 6. TERM." of the Agreement is amended to extend the term of the current Agreement. With this First Amendment, the Agreement shall be automatically renewed for two (2) additional, approximately five (5) year renewal terms as follows:

In order to establish an annual term commensurate with a calendar year, the initial renewal term will commence on August 1, 2013 and shall end December 31, 2013. Thereafter, and as part and parcel of the initial renewal term, four additional one (1) year periods shall automatically commence each January 1st and extend through December 31st of the same year, terminating the initial renewal term of this First Amendment on December 31, 2018. The second renewal term of this First Amendment shall automatically commence January 1, 2019 and shall end December 31, 2023, the final expiration date. Automatic renewal as provided herein will only cease upon at least

ninety (90) days written notice of non-renewal in advance of the commencement of any annual term during the initial renewal term or in advance of the commencement of the second renewal term by one party to the other or until the final expiration date, which ever is sooner. Landlord agrees not to terminate this Agreement simply as a method to re-negotiate the terms contained herein.

After January 1, 2019, Licensee may request the Village to enter into negotiations toward renewing or extending this Agreement. Any renewal or extension shall be according to terms that are mutually agreeable and the Village shall not be bound to accept any particular terms or to renew any or all of the rights granted by this Agreement.

2. "Section 10. Compensation." of the Agreement is stricken and amended as follows:

Section 10. COMPENSATION

a. Beginning on August 1, 2013, Licensee shall pay to the Village a license fee of \$4,000.00 per month each month of 2013. **Thereafter, effective on the first day of January in each subsequent year during the term of the Agreement, the monthly license fee shall increase in an amount equal to the fee for the preceding year multiplied by 4%.** The monthly fee shall be paid to the Village of Downers Grove, Village Hall, 801 Burlington Avenue, Downers Grove, IL 60515 each month by the 10th of the month.

3. Section 13. "Assignment" of the Agreement is stricken and amended as follows:

Section 13. ASSIGNMENT AND SUBLETTING

This Agreement may not be assigned or transferred without the express written consent of the Village, which shall not be unreasonably withheld, conditioned or delayed. The Village agrees to respond to any such request within thirty (30) days from receipt of the request. Any assignment or transfer without such written consent shall, at the option of the Village, be deemed to be void and of no effect. Provided, however, this Agreement may be assigned or transferred to Licensee's parent or subsidiary, successor legal entity or other affiliate of Licensee without the Village's written consent as long as the Village is given written notice of the assignment or transfer within thirty (30) days thereof.

The Village must approve any sublease to any entity that is not Licensee's parent or subsidiary, successor legal entity or other affiliate of Licensee and the Village shall be entitled to fifty percent (50%) of any such sublease in addition to the rental fee as described in Section 10. COMPENSATION, above.

4. "Section 16. NOTICES." of the Agreement is amended to indicate the current addresses of each party:

To Village:
Village Manager
Village of Downers Grove

Site: 801 Burlington Tower
Site No: IL1450
FA No: 10095652

801 Burlington Avenue
Downers Grove, IL 60515
630.434-5500

With Copy to:
Village Attorney
Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515
630.434-5541

To Licensee:
New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #IL1450; Cell Site Name: Downers Grove
Fixed Asset No. 10095652
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With Copy to:
New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #IL1450; Cell Site Name: Downers Grove
Fixed Asset No. 10095652
15 East Midland Avenue
Paramus, NJ 07652

5. There shall be added a Section 17 as follows:

“Section 17. TAXES.” Licensee is solely responsible for payment of taxes on the leasehold (PIN # 09-08-211-015). Licensee is solely responsible to determine the taxes owed and to comply with the DuPage County payment procedures. Licensee shall reimburse the Village for any personal or real property taxes which are assessed as a result of Licensee’s Improvements and directly attributable to its use of the Property under the terms of this First Amendment to the Agreement. Licensee shall have the right, at its own expense and without expense to the Village, to contest by appropriate proceedings, conducted with due diligence and in good faith, the validity of the amount of taxes or reassessment as applicable to the Licensed Premises or the Licensee Improvements. In the event that the Village becomes aware of any tax delinquency and that delinquency is not cured by the Licensee thirty (30) days from the date the Village sends written notice, the Village shall have the right to remove any of Licensee’s equipment and terminate this First Amendment to the Agreement.

6. Licensee shall be entitled to access their equipment Monday through Friday, 7:00am to 3:30pm CST, by contacting the Village Building Services Department at 630/434-5551. If access is required after business hours, on weekends, on a holiday or in

the event of an emergency, Licensee shall contact the Village Operations Center at 630/434-5706 or 630/434-5707.

7. Except as amended herein, all terms, conditions, provisions, covenants and agreements contained in the Agreement shall be reinstated and shall remain in full force and effect in their entirety. In the event of a conflict between this First Amendment and the Agreement, the First Amendment shall control. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Agreement on the dates set forth below.

NEW CINGULAR WIRELESS PCS, LLC
A Delaware limited liability company

By: AT&T Mobility Corporation, its Manager

VILLAGE OF DOWNERS GROVE

By: _____
Village Manager

Scott A. Root

Name: SCOTT A. ROOT

Title: Real Estate & Construction Manager

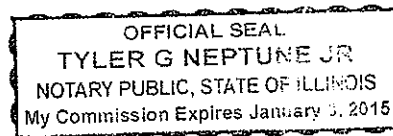
Date: _____

Date: 4-6-12

Attest: _____
April Holden, Village Clerk

Subscribed and sworn to before me this
6TH day of APRIL, 2012.

Tyler G Neptune Jr
Notary Public



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT
AND RESTATEMENT TO LICENSE AGREEMENT**

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

1. That the form and substance of a certain Agreement (“Agreement”), between the between the Village of Downers Grove (“Village”) and New Cingular Wireless, PC, LLC k/n/a AT&T Mobility (“Licensee”) for a first amendment to license agreement for the maintenance and operation of antenna equipment on Village property located at 2304 Maple Avenue, Downers Grove, IL, as set forth in the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

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

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

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

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

Mayor

Passed:

Attest: _____
Village Clerk

**FIRST AMENDMENT & RESTATEMENT
TO LICENSE AGREEMENT**

THIS FIRST AMENDMENT & RESTATEMENT TO LICENSE AGREEMENT (“First Amendment”), dated as of the later of the signature dates below, is by and between the **Village of Downers Grove**, an Illinois municipal corporation, having a mailing address of 801 Burlington Avenue, Downers Grove, Illinois 60515 (hereinafter referred to as “Village”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, successor in interest to AT&T Wireless PCS, INC. k/n/a AT&T Mobility, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as “Licensee”).

WHEREAS, Village and Licensee entered into a License Agreement entitled “LICENSE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND AT&T WIRELESS PCS, INC. TO INSTALL, MAINTAIN AND OPERATE AN ANTENNA AND EQUIPMENT ON THE WATER TOWER AT MAPLE AND BELMONT” dated January 25, 1999 (Resolution 99-3), copies of which are attached hereto, whereby Village leased to Licensee certain Premises, therein described, that are a portion of the Property located at 2304 Maple Avenue, Downers Grove, Illinois (“Agreement”); and

WHEREAS, Village and Licensee desire to amend the Agreement to provide that the term of the Agreement shall be restated, extended and to confirm compensation amounts and tax payment responsibility; and

WHEREAS, Village and Licensee also desire to amend the Agreement to provide that any notice or communication shall be sent to the Village at its current address and to Licensee at its current address.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Village and Licensee agree as follows:

1. “Section 6. TERM.” of the Agreement is amended to extend the term of the current Agreement. With this First Amendment, the Agreement shall be automatically renewed for two (2) additional approximately five (5) year renewal terms as follows:

In order to establish an annual term commensurate with a calendar year, the initial renewal term will commence on March 1, 2014 and shall end December 31, 2014. Thereafter, and as part and parcel of the initial renewal term, four additional one (1) year periods shall automatically commence each January 1st and extend through December 31st of the same year, terminating the initial renewal term of this First Amendment on December 31, 2018. The second renewal term of this First Amendment shall automatically commence January 1, 2019 and shall end December 31, 2023, the final expiration date. Automatic renewal as provided herein will only cease upon at least ninety (90) days written notice of non-renewal in advance of the commencement of any

annual term during the initial renewal term or in advance of the commencement of the second renewal term by one party to the other or until the final expiration date, which ever is sooner. Village agrees not to terminate the Agreement simply as a method to re-negotiate the terms contained herein.

After January 1, 2019, Licensee may request the Village to enter into negotiations toward renewing or extending this Agreement. Any renewal or extension shall be according to terms that are mutually agreeable and the Village shall not be bound to accept any particular terms or to renew any or all of the rights granted by this Agreement.

2. "Section 7. Compensation." of the Agreement is stricken and amended as follows:

Section 7. COMPENSATION

a. Beginning on March 1, 2014, Licensee shall pay to the Village a license fee of \$4,000.00 per month each month of 2014. **Thereafter, effective on the first day of January in each subsequent year during the term of the Agreement, the monthly license fee shall increase in an amount equal to the fee for the preceding year multiplied by 4%.** The monthly fee shall be paid to the Village of Downers Grove, Village Hall, 801 Burlington Avenue, Downers Grove, IL 60515 each month by the 10th of the month.

3. Section 16. "Assignment" of the Agreement is stricken and amended as follows:

Section 16. ASSIGNMENT AND SUBLETTING

This Agreement may not be assigned or transferred without the express written consent of the Village, which shall not be unreasonably withheld, conditioned or delayed. The Village agrees to respond to any such request within thirty (30) days from receipt of the request. Any assignment or transfer without such written consent shall, at the option of the Village, be deemed to be void and of no effect. Provided, however, this Agreement may be assigned or transferred to Licensee's parent or subsidiary, successor legal entity or other affiliate of Licensee without the Village's written consent as long as the Village is given written notice of the assignment or transfer within thirty (30) days thereof.

The Village must approve any sublease to any entity that is not Licensee's parent or subsidiary, successor legal entity or other affiliate of Licensee and the Village shall be entitled to fifty percent (50%) of any such sublease in addition to the rental fee as described in Section 7. COMPENSATION, above.

4. "Section 19. NOTICES." of the Agreement is amended to indicate the current addresses of each party:

To Village:
Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515
Attn: Village Manager

With Copy to:
Village Attorney
Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

To Licensee:
New Cingular Wireless, PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #:N118138
Cell Site Name: IL1439/Maple & Belmont (IL)
Fixed Asset No: 10108656
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With Copy to:
New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #:N118138
Cell Site Name: IL1439/Maple & Belmont (IL)
Fixed Asset No: 10108656
15 East Midland Avenue
Paramus, NJ 07652

5. "Section 12. TAXES" of the Agreement is stricken and amended as follows:
"Section 12. TAXES." Licensee is solely responsible for payment of taxes on the leasehold (PIN # 08-13-200-025). Licensee is solely responsible to determine the taxes owed and to comply with the DuPage County payment procedures. Licensee shall reimburse the Village for any personal or real property taxes which are assessed as a result of Licensee's Improvements and directly attributable to its use of the Property under the terms of this First Amendment to the Agreement. Licensee shall have the right, at its own expense and without expense to the Village, to contest by appropriate proceedings, conducted with due diligence and in good faith, the validity of the amount of taxes or reassessment as applicable to the Licensed Premises or the Licensee Improvements. In the event that the Village becomes aware of any tax delinquency and that delinquency is not cured by the Licensee within thirty (30) days from the date the Village sends written notice, the Village shall have the right to remove any of Licensee's equipment and terminate this First Amendment to the Agreement.

6. Licensee shall be entitled to access their equipment Monday through Friday, 7:00am to 3:30pm CST, by contacting the Village Building Services Department at 630/434-5551. If access is required after business hours, on weekends, on a holiday or in the event of an emergency, Tenant shall contact the Village Operations Center at 630/434-5706 or 630/434-5707.

6. Except as amended herein, all terms, conditions, provisions, covenants and agreements contained in the Agreement shall be reinstated and shall remain in full force

and effect in their entirety. In the event of a conflict between this First Amendment and the Agreement, the First Amendment shall control. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Amendment on the dates set forth below.

VILLAGE OF DOWNERS GROVE

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

By: AT&T Mobility Corporation, its Manager

By: _____
Village Manager

Scott A. Root

Name: SCOTT A ROOT

Title: Real Estate & Construction Manager

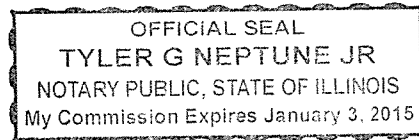
Date: _____

Date: 4-6-12

Attest: _____
April Holden, Village Clerk

Subscribed and sworn to before me this
6TH day of APRIL, 2012.

Tyler G Neptune Jr
Notary Public



RESOLUTION NO. 98-42

**A RESOLUTION AUTHORIZING EXECUTION OF A LICENSE AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND AT&T WIRELESS PCS TO
INSTALL, MAINTAIN AND OPERATE ANTENNA EQUIPMENT
ON THE LATTICE TOWER AT THE DOWNERS GROVE VILLAGE HALL**

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

1. That the form and substance of a License Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and AT&T Wireless PCS for the installation, maintenance and operation of AT&T antenna equipment on Village property located at 801 Burlington Avenue, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, are hereby approved.

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

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

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

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

Betty M. Cheever

Mayor

Passed: July 13, 1998
Attest: *Agnetta N. Holt*

Village Clerk

**LICENSE AGREEMENT BETWEEN THE VILLAGE OF
DOWNERS GROVE AND AT&T WIRELESS PCS, INC. TO INSTALL, MAINTAIN
AND OPERATE AN ANTENNA AND ACCESSORY BUILDING ON PUBLIC
PROPERTY IN CONJUNCTION WITH ITS CELLULAR TELEPHONE SERVICES**

WITNESSETH

WHEREAS, the Village of Downers Grove (hereinafter referred to as the "Village") is an Illinois Municipal Corporation and a Home Rule Unit, pursuant to the laws of the State of Illinois; and

WHEREAS, the Village is the owner of certain real estate, commonly known as the Civic Center, located at 801 Burlington Avenue, Downers Grove, Illinois (hereinafter referred to as the "Property"); and

WHEREAS, the Village owns, operates and maintains a DPW lattice tower at the Civic Center as shown on Exhibit 1 attached hereto (hereinafter referred to as the "Tower"); and

WHEREAS, AT&T Wireless PCS, Inc. (hereinafter referred to as the "Licensee") has requested permission to install an antenna on the Tower (hereinafter referred to as the "Antenna"); and to construct and maintain an accessory structure on the Property (hereinafter referred to as the "Building") for the purpose of providing cellular communication services; and

WHEREAS, the Village of Downers Grove has agreed to license and permit the installation of the Antenna on Tower and Building on Property as set forth herein for a term of five (5) years, renewable upon the joint agreement of both parties.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions, the Village and the Licensee agree as follows:

1. **CONTRACT DOCUMENTS:** The provisions set forth in the preamble are incorporated into and made a part of this Agreement. The following exhibits are hereby incorporated into and made a part of this Agreement:

- a. Exhibit 1 - Site map of the Property which includes the location of any proposed underground utilities necessary for operation of the Antenna.
- b. Exhibit 2 - Plans and specifications for the Antenna.
- c. Exhibit 3 - Plans and specifications for the Building.

2. **GRANT OF LICENSE:** The Village hereby grants to the Licensee the license, right, permission and authority to construct, operate and maintain the Antenna and the Building and to

provide necessary utility services to the same for the period of time and upon the terms and conditions hereinafter specified. The Antenna shall be located upon the Tower and installed and maintained in conformance with Exhibit 2. The Building shall be located upon the Property, and constructed and maintained in conformance with Exhibit 3. The license shall not terminate upon the sale assignment or transfer of the property, but shall run with the land.

3. **SPECIFICATIONS:** The Licensee shall comply with the following specifications:

a. **In general:** There shall be no variations, modifications, or upgrades from the plans and specifications of Exhibits 1, 2 and 3 without the prior written approval of the Village.

b. **Antenna:** The Antenna shall be for the operation of radio frequency: 1850-1865 mHz; 1930-1945 mHz. The Antenna shall be installed, attached to the Tower, and maintained in conformance with Exhibit 2 and any applicable state or federal requirements. The Antenna shall be located more than ten (10) feet from any existing antenna equipment on the Tower and shall be located below any existing antennas.

4. **CONSTRUCTION, INSTALLATION AND MAINTENANCE:** The Licensee may construct, repair, maintain, renew or replace the Antenna and Building, subject to the following conditions:

a. The Licensee shall obtain a building permit and authorization from the Village, in accordance with the applicable ordinances, prior to commencing any work on the Tower or the Property. Such work shall comply with applicable codes and regulations and shall be conducted in a workmanlike manner. In conjunction with such work, Licensee at its expense shall repair the red lights currently located on top of the Tower and thereafter have no further obligation to maintain the red lights or further repair the same.

b. The Licensee shall obtain all necessary approvals from any regulatory authorities for the operation of a cellular communications system utilizing the Tower and the Property. Further, Licensee shall comply with all applicable laws and regulations of such regulatory authorities.

c. Except as provided in this Agreement, the Licensee shall not take any action or allow any action to be done which may impair the use of or damage the Tower or the Property.

d. The Licensee may not interfere unreasonably with the use of the Tower or the Property by the Village, its officers, agents and employees.

e. Except for emergency situations, the parties shall provide each other

reasonable advance notice before beginning any work or maintenance on the Tower, the Building, or the Antenna. In the event of an emergency, if prior notice is not possible, the party shall provide for notice at the earliest reasonable opportunity. Licensee can obtain keys to the area between the hours of 8:00 a.m. and 4:00 p.m. from the Village Operations Center, or in the event of an emergency after hours, by calling (630) 434-5706 or 5707.

f. The Licensee shall maintain the Antenna and the Building in good repair, and in a clean and sightly condition.

g. All costs connected with the installation, maintenance, repair, use and removal of the Antenna and any related equipment shall be the responsibility of the Licensee.

h. Upon termination of this Agreement by either party, the Licensee shall promptly and at its expense remove the Antenna and, if requested by the Village, the Building, and restore the Tower and Property to its original condition, ordinary wear and tear excepted.

i. If Licensee abandons its use of the Antenna, Licensee shall, within seven (7) days of receipt of written notice from the Village notifying the Licensee of such abandonment and at its expense, remove the Antenna and, if requested by the Village, the Building and restore the Tower and Property to its original condition, ordinary wear and tear excepted. The Antenna will be presumed abandoned if it is not operated for a period on one month or more. If the Antenna and Building are not removed within seven (7) days, the Village may remove them and the Licensee shall reimburse the Village for the costs of such removal.

5. **NON-INTERFERENCE WITH VILLAGE OPERATIONS:** The parties agree that the Tower currently serves a variety of critical public safety jobs, including servicing the Village's E-911 and Computer Aided Dispatch systems. Neither this license, nor the Antenna and Building, may be permitted to interfere or obstruct the functioning of these systems. Licensee warrants that the Antenna and the Building shall be constructed, maintained and operated in such a manner as to not interfere or obstruct, any radio or electronic equipment or signals of the Village's E-911 and Computer Aided Dispatch systems. In the event such interference occurs, and the interference cannot be eliminated by Licensee after reasonable efforts, the Village may terminate this Agreement. Provided after notice to Licensee, the Village may immediately terminate this Agreement, or require that operation of the Antenna or the Building be immediately ceased, where it determines that the Antenna or Building present an immediate and serious danger to the public health, welfare or safety due to interference with the operation of the E-911 and Computer Aided Dispatch system.

6. **TERM:**

a. Unless extended pursuant to Paragraph 6(b), this License shall have an Initial Term beginning August 1, 1998, and ending July 31, 2003, and two (2) five-year Extension Terms beginning August 1, 2003, and August 1, 2008, respectively. Such renewal terms shall automatically commence unless either party provides the other party with written notice of its election not to renew the License at least one hundred and twenty (120) days prior to the expiration of the current term.

b. After August 1, 2008, Licensee may request the Village to enter into negotiations towards renewing or extending this Agreement. Any renewal or extension shall be according to terms that are mutually agreeable and the Village shall not be bound to accept any particular terms or to renew any or all of the rights granted by this Agreement.

7. **TERMINATION:** In addition to the provisions of Paragraph 4, this Agreement and any license may be terminated as follows:

a. Licensee may terminate this Agreement, without further liability, on sixty (60) days written notice to the Village, if in Licensee's good faith judgment the antenna site is or becomes unacceptable or unusable under Licensee's then current design or engineering specifications for the site.

b. In the event either party fails to comply with the terms of this Agreement such party shall be considered in default and the non-defaulting party may serve written notice of its intent to terminate the Agreement and the license. Except where the public health or safety is threatened, the notice shall give the defaulting party not less than thirty (30) days to correct such non-compliance. In the event the default is not corrected within thirty (30) days of such notice, the non-defaulting party may terminate this Agreement by serving a written notice of termination.

c. In the event the Tower or Property is destroyed or substantially damaged, either party may terminate this Agreement upon thirty (30) days written notice.

8. **TOWER:** Upon receiving thirty (30) days notice from the Village that it intends to repair the Tower, Licensee shall, at its own expense in such manner as Village shall reasonably request, temporarily relocate, change or alter the position of the antenna on the Tower. Tenant shall have no duty to maintain the Tower.

9. **RESTORATION:** When the Licensee does any work in or affecting the Tower or the Property, it shall, at its own expense, remove any obstructions therefrom and restore such Tower

or Property to as good a condition as existed before the work was undertaken, unless otherwise directed by the Village. If the Licensee fails to restore the Tower or Property or to remove any obstruction therefrom, as required by this paragraph, the Village may, after communications with the Licensee and after affording the Licensee a reasonable opportunity to correct the situation, restore the Tower or Property, or remove the obstruction therefrom. No such prior written notice shall be required in the event that the Village determines that an emergency situation exists. The Licensee shall pay the Village for any such restoration or removal within fourteen (14) days after receiving a bill from the Village for such work.

10. **COMPENSATION:** As compensation during the Initial Term and any Extended Term and prior to the termination of the Lease, Licensee shall pay to the Village rent which for the first year of this Agreement shall be \$2,085.00 a month. Thereafter effective on the first day of ~~April~~^{May} of each year of this Agreement, rent shall increase in an amount equal to the product of the rent for the preceding year multiplied by 1.04 (104%).

11. **INDEMNIFICATION:** The Licensee shall indemnify, become responsible for and forever save harmless the Village, its boards, committees, commissions, officers, agents and employees from any and all liability arising out of the existence of this Agreement; the installation, existence, maintenance or repair of the Antenna or the Building; or any act or omission of Licensee, its officers, agents and employees. For purposes of this Agreement, the term "liability" includes, but is not limited to: actual or claimed loss or damage to property or injury to or death of persons; actual or claimed responsibility for such loss, damage, injury or death; and any and all judgments, decrees, costs and expenses of every sort and kind of incident to such loss, damage, injury, death or responsibility, including, but not limited to, court costs, fines and attorney's fees.

12. **INSURANCE:** At all times while this Agreement remains in effect, and in recognition of the indemnification provided in the foregoing Paragraph, the Licensee shall, at its own cost and expense, maintain a program of third party liability insurance and/or self-insurance to protect the Village, its officers, employees and agents from any liability for bodily injury, death, and property damage occasioned by the activities of the Licensee under this Agreement.

a. During the Term. At the commencement of the Term, Licensee shall procure, pay for and maintain in full force and effect during the entire Term (i) worker's compensation insurance as required by law and which insures Village against worker's compensation claims arising out of Licensee's activities on the Property; (ii) fire and casualty insurance covering all improvements, fixtures and other personal property on the Property in an amount not less than one hundred percent (100%) of their actual replacement cost; and (iii) commercial general liability insurance, including broad form property damage insurance, for bodily injuries and property damage, in amounts not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and One Million and 00/100 Dollars

(\$1,000,000.00) in the aggregate covering bodily injuries or property damage occurring on the Property.

b. **During Construction.** During construction Licensee's contractor shall also maintain and provide Village with evidence of each of the insurance coverages specified in subparagraph (a) and in the amounts so specified. In addition, the contractor shall provide builder's risk insurance on an "all risks" basis for one hundred percent (100%) of the insurable value of all construction work in place or in progress from time to time, insuring the Project, including materials in storage and while in transit, against loss or damage by fire or other casualty, with extended coverage, vandalism and malicious mischief coverage, bearing a replacement cost agreed amount endorsement.

c. **Policies.** The policy or policies of insurance required above shall be underwritten by a company or companies authorized to do business in the State of Illinois, shall be reasonably satisfactory to Village, shall name Village as an additional insured and a certificate of insurance shall be delivered to the Village, together with evidence of the payment of the premiums, therefore, prior to the commencement of the term of this License. Licensee or, where applicable, Licensee's contractors shall furnish Village with a written notice of any cancellation, reduction or modification of insurance required under this Paragraph.

13. **ASSIGNMENT:** This Agreement may not be assigned or transferred without the express written consent of the Village. Any assignment or transfer without such written consent shall, at the option of the Village, be deemed to be void and of no effect. Village agrees that any such consent shall not be unreasonably withheld. Provided, however, this Agreement may be assigned or transferred to Licensee's parent or an affiliate of Licensee without the Village's written consent as long as the Village is given notice of the assignment or transfer within 14 days thereof.

14. **INVALIDITY:** If any section, paragraph, clause or provision of this Agreement shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Agreement.

15. **FORCE MAJEURE:** Neither party shall be deemed in violation of this Agreement for the delay in performance or failure to perform in whole or in part its obligations under this Agreement due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood or other act of God or by other events to the extent that such events are caused by circumstances beyond such party's control.

16. **NOTICES:** Unless otherwise specified herein, all notices from the Licensee to the Village under this ordinance shall be made in writing and delivered to:

Village Manager
Village of Downers Grove
Civic Center
801 Burlington Avenue
Downers Grove, IL 60515-4776

Unless otherwise specified herein, all notices from the Village under this ordinance shall be made in writing and delivered to the following representative of the Licensee at the address shown:

AT&T Wireless PCS, Inc.
Attn. Site Acquisition Dept.
8700 W. Bryn Mawr Ave. Suite 900S
Chicago, IL 60631

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

LICENSEE

AT&T WIRELESS PCS, INC.

By: *A E Casper*
Director of System Development

Subscribed and sworn to before
me this ____ day of _____, 1998.

Notary Public

VILLAGE OF DOWNERS GROVE

By: *Betty M. Chever*
Mayor

ATTEST: *April N. Hold*
Village Clerk

RESOLUTION NO. 99-3

**A RESOLUTION AUTHORIZING EXECUTION OF A LICENSE AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND AT&T WIRELESS PCS TO
INSTALL, MAINTAIN AND OPERATE ANTENNA EQUIPMENT
ON THE WATER TOWER AT MAPLE AND BELMONT**

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

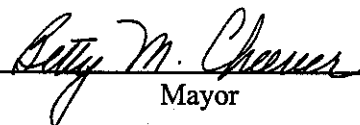
1. That the form and substance of a License Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and AT&T Wireless PCS for the installation, maintenance and operation of AT&T antenna equipment on Village property located at 2304 Maple Avenue, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, are hereby approved.

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

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

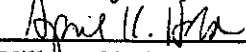
4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

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



Mayor

Passed: January 25, 1999

Attest: 

Village Clerk

Rev'd 01/11/99

**LICENSE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS
GROVE AND AT&T WIRELESS PCS, INC. TO INSTALL,
MAINTAIN AND OPERATE AN ANTENNA ON VILLAGE PROPERTY**

WITNESSETH

WHEREAS, the Village of Downers Grove (hereinafter referred to as the "Village") is an Illinois municipal corporation and a home rule unit, pursuant to the laws of the State of Illinois; and

WHEREAS, the Village is the owner of certain real estate located at 2304 Maple Avenue, Downers Grove, Illinois, upon which is located the Village Maple/Belmont Water Tower (hereinafter referred to as the "Tower"); and

WHEREAS, AT&T Wireless PCS, Inc. (hereinafter referred to as the "Licensee") has requested permission to install an antenna on the top of the Tower and its related equipment on ground space near the Tower (hereinafter referred to as the "Antenna"); and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions, the Village and the Licensee agree as follows:

1. **CONTRACT DOCUMENTS:** The provisions set forth in the preamble and the following exhibits are incorporated into and made a part of this Agreement:
 - a. Exhibit 1 - Site map of the Property titled "Site Plan" and dated 10/5/98 which includes location of any proposed underground utilities necessary for operation of the Antenna.
 - b. Exhibit 2 - Plans and specifications for the Antenna and the housing of the related Antenna equipment.
2. **GRANT OF LICENSE:** The Village hereby grants to the Licensee the license, right, permission and authority to install, operate and maintain the Antenna upon the terms and conditions hereinafter specified. The license shall not terminate upon the sale, assignment or transfer of the property, but shall run with the land.
3. **SPECIFICATIONS:** The Licensee shall comply with the following specifications:

a. *In general:* During the term of this agreement, there shall be no variations, modifications, or upgrades from the plans and specifications of Exhibits 1 and 2 without the prior written approval of the Village.

b. *Antenna:* The Antenna shall be for the operation of radio frequency: 1850 - 1865 MHZ & 1930- 1945 MHZ. The Antenna shall be installed, attached to the Tower, and maintained in conformance with Exhibit 2 and any applicable state or federal requirements. The Antenna shall be located more than ten (10) feet from any existing antenna equipment and shall not exceed forty-eight (48) inches in height.

4. **CONSTRUCTION, INSTALLATION AND MAINTENANCE:** The Licensee may install, repair, maintain, or replace the Antenna, subject to the following conditions:

a. Licensee shall obtain all required permits and authorizations from the Village, in accordance with the applicable ordinances, prior to commencing any work under this agreement. Such work shall comply with applicable codes and regulations and shall be conducted in a workmanlike manner.

b. The Licensee shall obtain all necessary approvals from any regulatory authorities for the operation of the Antenna. Further, the Licensee shall comply with all applicable laws and regulations of such regulatory authorities.

c. All costs connected with the installation, maintenance, repair, use and removal of the Antenna and any related equipment shall be the responsibility of the Licensee.

d. The Licensee shall not take any action or allow any action to be done which may impair the use of or damage the Tower.

e. The Licensee may not interfere with the use by the Village, its officers, agents and employees, of the Tower or the property on which it is located.

f. Except for emergency situations, the Village shall provide reasonable advance notice to Licensee when it conducts any Tower repair or maintenance work that affects the Antenna or function of the Antenna. Licensee shall be entitled to access the equipment located on the ground space near the tower twenty-four (24) hours a day, seven days a week. Licensee shall provide Village reasonable advance notice when access to the antenna on top of the Tower is needed. Keys to the Tower can only be obtained between the hours of 8:00 a.m. and 4:00 p.m. from the Village Operations Center, or in the event of an emergency after hours, by calling (630) 434-5706 or 5707.

g. The Licensee shall maintain the Antenna in good repair, and in a clean and sightly condition.

h. Upon termination of this Agreement by either party, the Licensee shall, within thirty (30) days and at its expense, remove the Antenna and restore the Tower to substantially its original condition.

i. If Licensee abandons its use of the Antenna, Licensee shall, within seven (7) days of receipt of written notice from the Village notifying the Licensee of such abandonment and at its expense, remove the Antenna and restore the Tower to substantially its original condition. The Antenna will be presumed abandoned if it is not operated for a period of one month or more. If the Antenna is not removed within seven (7) days, the Village may remove the Antenna and the Licensee shall reimburse the Village for the costs of such removal.

5. **NON-INTERFERENCE WITH VILLAGE OPERATIONS:** Neither this license nor the Antenna shall interfere or obstruct the functioning of the Village's operations and services. Licensee warrants that the Antenna shall be constructed, installed, maintained and operated in such a manner as to not interfere or obstruct any radio or electronic equipment or signals of the Village's radio and data systems. In the event such interference occurs, and the interference cannot be eliminated by Licensee after reasonable efforts, the Village may terminate this Agreement. Provided after notice to Licensee, the Village may immediately terminate this Agreement, or require that operation of the Antenna be immediately ceased where it determines that the Antenna presents an immediate and serious danger to the public health, welfare or safety due to interference with the operation of the Village's radio and data systems.

6. **TERM:**

a. Unless extended pursuant to Paragraph 6(b), this License shall have an Initial Term beginning March 1, 1999 (or upon the issuance of a building permit), and ending February 28, 2004, and two (2) five-year Extension Terms beginning March 1, 2004, and March 1, 2009, respectively. Such renewal terms shall automatically commence unless either party provides the other party with written notice of its election not to renew the License at least one hundred and twenty (120) days prior to the expiration of the current term.

b. After March 1, 2009, Licensee may request the Village to enter into negotiations towards renewing or extending this Agreement. Any renewal or extension shall be according to terms that are mutually agreeable and the Village shall not be bound to accept any particular terms or to renew any or all of the rights granted by this Agreement.

7. **COMPENSATION:** Upon execution of this Agreement, Licensee shall pay to the Village a license fee of \$2,250.00 per month for the first year of the Agreement. Thereafter,

effective on the first day of the subsequent years of the agreement, the monthly license fee shall increase in an amount equal to the fee for the preceding year multiplied by 1.04 (104%). The amount shall be prorated for any fractional month at the beginning or at the end of a term. The fee shall be paid to the Village of Downers Grove, Village Hall, 801 Burlington Avenue, Downers Grove, IL 60515.

8. **TERMINATION**: In addition to the provisions of Paragraph 4, this Agreement and any license may be terminated as follows:

(a) Licensee may terminate this Agreement, without further liability, on sixty (60) days written notice to the Village, if in Licensee's good faith judgment the antenna site is or becomes unacceptable or unusable under Licensee's then current design or engineering specifications for the site.

(b) In the event either party fails to comply with the terms of this Agreement such party shall be considered in default and the non-defaulting party may serve written notice of its intent to terminate the Agreement and the license. Except where the public health or safety is threatened, the notice shall give the defaulting party not less than thirty (30) days to correct such non-compliance. In the event the default is not corrected within thirty (30) days of such notice, the non-defaulting party may terminate this Agreement by serving a written notice of termination.

(c) In the event the Tower is destroyed or substantially damaged, this agreement shall be considered terminated.

9. **TOWER REPAIR/MAINTENANCE**: Upon receiving thirty (30) days notice from the Village that it intends to repair or perform maintenance to the Tower, Licensee shall, at its own expense and in such manner as the Village shall reasonably request, immediately remove, relocate, change or alter the position of the Antenna. During the term of this Agreement, the Tower may be refurbished and/or painted. Refurbishment and/or painting will take several months to complete (approximately five to eight months). Prior to beginning refurbishment and/or painting, Licensee understands that its Antenna shall be removed from the Tower upon notice from the Village and that the Antenna shall not be reinstalled until the refurbishment and/or painting is completed and the Village has approved such reinstallation. During such period, Licensee may, at its sole cost and expense, install the Antenna on a temporary telephone pole outside the shrouded area of the tower in a location approved by the Village. However, such temporary arrangement shall not interfere with the refurbishment and/or painting of the tower or with other Village operations on the site. The Village shall not be responsible for any costs of removal, relocation, and reinstallation of the Antenna as a result of the refurbishment and/or painting.

10. **RESTORATION**: When the Licensee does any work on or affecting the Antenna, it shall, at its own expense, restore the Tower to as good a condition as existed before the work

was undertaken, unless otherwise directed by the Village. If the Licensee fails to restore the Tower, the Village may, after communications with the Licensee and after affording the Licensee a reasonable opportunity to correct the situation, restore the Property, or remove the obstruction therefrom. No such prior written notice shall be required in the event that the Village determines that an emergency situation exists. The Licensee shall pay the Village for any reasonable costs of such restoration within fourteen (14) days after receiving a bill from the Village for such work.

11. **UTILITIES:** Licensee shall be responsible for obtaining adequate utilities for operation of the Antenna including electricity. Any utilities to be installed must be underground and the location approved by the Village. Licensee shall pay for the electricity or any other utility it consumes in its operations at the rate charged by the servicing utility company and the Village shall not be liable for such charges.

12. **TAXES:** Licensee shall either pay, or reimburse the Village, for any personal or real property taxes which are assessed as a result of Licensee's improvements and use of the Property under the terms of this Agreement.

13. **INDEMNIFICATION:** Licensee shall indemnify, become responsible for and save harmless the Village, its boards, committees, commissions, officers, agents and employees from any and all liability arising out of the existence of this Agreement; the installation, existence, maintenance or repair of the Antenna; or any act or omission of Licensee, its officers, agents and employees. For purposes of this Agreement, the term "liability" includes, but is not limited to: actual or claimed loss or damage to property or injury to or death of persons; actual or claimed responsibility for such loss, damage, injury or death; and any and all judgments, decrees, costs and expenses of every sort and kind of incident to such loss, damage, injury, death or responsibility, including, but not limited to, court costs, fines and attorney's fees.

14. **INSURANCE:** At all times while this Agreement remains in effect, and in recognition of the indemnification provided in the foregoing Paragraph 13, the Licensee shall, at its own cost and expense, maintain a program of third party liability insurance and/or self-insurance to protect the Village, its officers, employees and agents from any liability for bodily injury, death, and property damage occasioned by the activities of the Licensee under this Agreement.

(a) During the Term of the Agreement. Licensee shall procure, pay for and maintain in full force and effect during the entire term of the agreement (i) worker's compensation insurance as required by law and which insures Village against worker's compensation claims arising out of Licensee's activities on the Tower; (ii) fire and casualty insurance covering the Antenna in an amount not less than one hundred percent (100%) of their actual replacement cost; and (iii) commercial general liability insurance, including broad form property damage

insurance, for bodily injuries and property damage, in amounts not less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate covering bodily injuries or property damage occurring on the Tower.

(b) **During Construction/Installation.** During construction/installation, Licensee's contractor shall also maintain and provide Village with evidence of each of the insurance coverages specified in subparagraph (a) and in the amounts so specified. In addition, the contractor shall provide builder's risk insurance on an "all risks" basis for one hundred percent (100%) of the insurable value of all construction work in place or in progress from time to time, insuring the project, including materials in storage and while in transit, against loss or damage by fire or other casualty, with extended coverage, vandalism and malicious mischief coverage, bearing a replacement cost agreed amount endorsement.

(c) **Policies.** The policy or policies of insurance required by subparagraphs (a) and (b) shall be underwritten by a company or companies authorized to do business in the State of Illinois, shall be reasonably satisfactory to Village, shall name Village as an additional insured and shall be delivered to the Village, together with evidence of the payment of the premiums, therefore, prior to the commencement of the term of this Lease. Licensee or, where applicable, Licensee's contractors shall furnish Village with a written notice of any cancellation, reduction or modification of insurance required under this Section.

15. **LIENS:** Licensee agrees that it will not permit or suffer any lien to be put upon or arise or accrue against the property on which the Tower is located in favor of any person or persons, individual or corporate, furnishing either labor or material in any work herein proposed, and the Licensee further covenants and agrees to hold the Village and its property free from any and all liens, or rights or claim of lien, which may or might arise or accrue under or be based upon any mechanic's lien law of the State of Illinois.

16. **ASSIGNMENT:** This Agreement may not be assigned or transferred without the express written consent of the Village. Any assignment or transfer without such written consent shall, at the option of the Village, be deemed to be void and of no effect. Village agrees that any such consent shall not be unreasonably withheld. Provided, however, this Agreement may be assigned or transferred to Licensee's parent or an affiliate of Licensee without the Village's written consent as long as the Village is given written notice of the assignment or transfer within 14 days thereof.

17. **INVALIDITY:** If any section, paragraph, clause or provision of this Agreement shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect

any of the other provisions of this Agreement.

18. **FORCE MAJEURE:** Neither party shall be deemed in violation of this Agreement for the delay in performance or failure to perform in whole or in part its obligations under this Agreement due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood or other act of God or by other events to the extent that such events are caused by circumstances beyond such party's control.

19. **NOTICES:** Unless otherwise specified herein, all notices under this agreement shall be made in writing and delivered to:

Village Manager
Village of Downers Grove
Civic Center
801 Burlington Avenue
Downers Grove, IL 60515-4776

AT&T WIRELESS PCS, INC.
Attn.: Site Acquisition Department
8700 W. Bryn Mawr Avenue, Ste. 900 S
Chicago, IL 60631

20. This Agreement shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the
25th day of January, 1999.

LICENSEE

By: _____

Title: _____

Subscribed and sworn to
this ___ day of _____, 1999.

Notary Public

VILLAGE OF DOWNERS GROVE

By: Betty M. Cheever
Mayor

ATTEST:

April N. Holt
Village Clerk