



BERLIN MAYOR AND COUNCIL

Meeting Agenda

Berlin Town Hall

10 William Street

Monday, September 28, 2020

EFFECTIVE 9/14/20:

Limited public attendance at Mayor and Council and Board and Commission Meetings will be permitted based on Governor Hogan's September 1, 2020 Executive Order. These guidelines allow up to 50 percent capacity for indoor venues, with appropriate social distancing and face coverings for all attendees.

The Town of Berlin will implement these guidelines as follows:

1. In addition to Town officials and staff, up to 16 seats will be available to presenters, members of the public and the press.
2. Doors will be opened 15 minutes before the designated start time of the meeting and seating will be first-come, first-served.
3. At the start of the meeting, or when capacity has been reached, the doors will be locked to entry from the outside.

LIVE STREAMING WILL CONTINUE with the same conditions as have been in place during the pandemic:

- Meeting packets will be posted by 5:00 p.m. on the Wednesday before the meeting.
- Written questions will be accepted to provide the Mayor and Council the opportunity to review and discuss BY 12:00 PM/NOON on the day of the meeting. Submit to:
 - Email: info@berlinmd.gov, please use M&C Comments as your subject
 - Fax to: 410-641-2316
 - Mail to: Berlin Town Hall, Attn: M&C Comments, 10 Williams St., Berlin, MD 21811. Mail should be posted no later close of business on the Friday before the meeting to help ensure delivery.
 - Drop off in one of the two drop boxes at Town Hall – one is at the rear of the building behind the stair tower, and the other is at the corner of Bay and Williams Street on the building.

To access the Meeting via live stream on Facebook, please click on the blue Facebook icon at the top of any page on the Town website, www.berlinmd.gov, or type @berlinmd in the Facebook search bar.

No response will be given to questions and comments submitted via Facebook during a regular meeting.

PUBLIC HEARINGS: If a public hearing is scheduled, questions will also be taken via Facebook during the Public Hearing portion of that meeting. A staff member will monitor the questions for duplicates, language and appropriateness to the Public Hearing topic. Depending on the volume of questions, we may not be able address everyone.

Responses will be given out loud via the live stream; they WILL NOT be responded to via the comments on Facebook.



BERLIN MAYOR AND COUNCIL

Meeting Agenda

**Berlin Town Hall
10 William Street
Monday, September 28, 2020**

7:00 PM REGULAR SESSION – Council Chambers (livestream)

1. Approval of the Minutes for:
 - a. Regular Session of 09/14/20
2. Nomination of new Planning and Zoning Commission member – Mayor Williams
3. Stormwater Presentation – EA Engineering, Science, and Technology, Inc., PBC Darl Kolar, P.E., BCEE, MBA
4. Strategic Demolition Grant and Community Legacy Grant Discussion – Economic and Community Development Director Ivy Wells
5. Motion 2020-26: Motion approving the second amendment to the lease agreement with New Cingular Wireless PCS, LLC. (AT&T) – Town Administrator Jeff Fleetwood
6. Departmental Reports
7. Town Administrator's Report
8. Comments from the Mayor
9. Comments from the Council
10. Comments from the Public (Questions or comments submitted prior to 12 noon on Monday, September 28, 2020 will be addressed at this time. Questions submitted on Facebook will not be answered during the meeting except during public hearings as applicable.)
11. Comments from the Press
12. Adjournment

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Town Administrator Jeffrey Fleetwood at (410) 641-4002. Written materials in alternate formats for persons with disabilities are made available upon request.

*TTY users dial 7-1-1 in the State of Maryland.
TTY users outside Maryland dial 1-800-735-2258*



BERLIN MAYOR AND COUNCIL
Meeting Minutes
Monday, September 14, 2020

7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers

Present: Mayor Gee Williams, Vice-President Elroy Brittingham, Councilmembers Thom Gulyas, Zackery Tyndall, Dean Burrell, and Troy Purnell.

Staff Present: Town Administrator Jeff Fleetwood, Deputy Town Administrator Mary Bohlen, Finance Director Natalie Saleh, Electric Utility Director Tim Lawrence, Economic and Community Development Director Ivy Wells, Town Attorney David Gaskill, and Administrative Manager Kelsey Jensen.

Due to the Coronavirus/Covid-19 State of Emergency, this meeting was broadcast live via Facebook.

Following the Lord's Prayer and Pledge of Allegiance, Mayor Williams called the meeting to order at approximately 7:00 PM.

1. Approval of the Minutes for:

a. Executive Session of 08/10/20:

On the motion of Councilmember Gulyas, the Executive Session minutes of August 10, 2020 were approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

b. Statement of Closure for Executive Session of 08/10/20:

Mayor Williams read the Statement of Closure.

c. Regular Session of 08/10/20:

On the motion of Councilmember Gulyas, the Regular Session Minutes of August 10, 2020 were approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

2. Motions to Approve:

a. Motion 2020-23: Motion approving the 2021 event schedule

Economic and Community Development Director Ivy Wells gave details on each event and who sponsors them. Councilmember Tyndall asked about options for Fireworks and the idea of scaling back the fireworks to fit within the \$5,000 deposit we have already paid; Ms. Wells said she will get back to him with those options. Ms. Wells stated that as of right now the options are to cancel completely and lose \$2,500 of our deposit or pay an additional \$5,000 and hold them before December 31, 2020. Mayor Williams added that if they take place this year it will be at the County ballfields. Ms. Wells said if we decide to do something on New Year's Eve, it will be earlier than midnight so families can attend. Councilmember Burrell asked if they approve the list tonight is it binding; Town Attorney David Gaskill said it is not; public health takes precedents.

On the motion of Vice-President Brittingham, Motion 2020-23 was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

b. Motion 2020-24: Motion approving six exemptions to Ordinance 2011-11, Chapter 30-1 allowing the consumption of alcohol in non-glass containers within the designated areas of Main Street and Stevenson Lane to 14 South Main Street, 104 Pitts Street to the intersection of Broad and Commerce Street, Main Street to the intersection of Broad and Gay Street and 4 Bay Street to the back of the parking lot at the Atlantic Hotel for the events

Economic and Community Development Director Ivy Wells gave information on the six events mentioned. Mayor Williams asked for clarity on the Jazz and Blues event; Ms. Wells said the event is from 10am-6pm and alcohol will not be served until noon.

On the motion of Councilmember Purnell, Motion 2020-24 was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas		X			
Zackery Tyndall	X				
<i>Voting Tally</i>	4	1			

c. Motion 2020-25: Motion approving Fiscal Year 2021 budget amendment increasing expense and revenue accounts associated with street improvements in the general fund

Town Administrator Jeffrey Fleetwood explained the Motion and said there is approximately one million in impact fees and street repairs directly impacted by developments are within the scope of approved spending of the impact fees. Councilmember Tyndall asked if we receive more Highway User Revenue (HUR) funds than the \$110,000 we projected, will that go back to repaying impact fees; Ms. Saleh said it would. Councilmember Tyndall then asked when we should know about HUR funds; Ms. Saleh said we receive them quarterly but they

are backed up right now. She will outline in detail how much is received in her quarterly budget reports.

On the motion of Councilmember Purnell, Motion 2020-25 was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

3. Departmental Reports:

a. Economic and Community Development Director – Ivy Wells

Ms. Wells said she is exploring event ideas.

b. Finance Director – Natalie Saleh

Ms. Saleh said the audit began today. She is working with Jean Holloway on the draft rate reports. Lastly, Blakely in customer service is due with child at the end of the month and will go out on maternity leave later this month.

c. Administrative Manager – Kelsey Jensen

Ms. Jensen informed everyone that there will be flu vaccines available on September 30th from 11am-1pm for employees and dependents. She recently completed the workers comp audit. She is working with Ms. Bohlen to learn the election process. Lastly, she has been working with the Ethics Commission to ensure all financial disclosures have been received and reviewed.

d. Electric Utility Director – Tim Lawrence

Mr. Lawrence discussed the new engines and the ribbon cutting ceremony; Mr. Fleetwood explained that the new engines are now fully insured. Mr. Lawrence also discussed the local outages that have recently been experienced in Town and their causes.

e. Water Resources – Jeffrey Fleetwood on behalf of Jamey Latchum

Mr. Fleetwood discussed the valve replacements on Franklin. He also discussed the work being preformed on the Franklin Avenue Water Tower. Lastly, he explained that they have been made aware of some small leaks in Town and are working to address them.

4. Town Administrator's Report – Jeffrey Fleetwood

Mr. Fleetwood pointed out a letter received from a resident on Evans Road and how pleased she was with the work done on the roads. Mr. Fleetwood said all Councilmember have seen the roads and that he is very please with the work ECM has done. Councilmember Tyndall asked if all the valves that need to be replaced by the Water Department will be covered under revenues; he said they would. Mr. Fleetwood then discussed possibly bringing some injured employees back for light duty to assist with customer service phones while Ms. Shord is out on maternity leave; he said there are a number of employees out that are cleared for light duty now, so they may try to utilize them.

5. Comments from the Mayor:

Mayor Williams said he is glad to see the weather changing and hopes everyone has remained safe and that hopefully we can get back to normal soon enough.

6. Comments from the Council:

Vice-President Brittingham said the streets and lines look great.

Councilmember Burrell echoed the comments regarding the streets. He also thanked Mr. Fleetwood and Mr. Lawrence for their forward thinking with the new generator.

Councilmember Purnell said the roads look great.

Councilmember Gulyas thanked Mr. Fleetwood for his work with the roads.

Councilmember Tyndall echoed the comments made about the roads and said the generator was an impressive piece of equipment and suggests everyone take a look.

7. Comments from the Public – none.

8. Comments from the Press – none.

9. Adjournment:

On the motion of Councilmember Burrell, the Mayor and Council meeting was adjourned at approximately 7:55PM.

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

Respectfully Submitted,



Kelsey Jensen
Administrative Manager



Mayor & Council of Berlin



OATH OF OFFICE

I, George Austin Purnell, do swear and affirm that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Town of Berlin **Planning and Zoning Commission** according to the Constitution and the Laws of this State.

SWORN THIS 28th DAY OF SEPTEMBER, 2020.

George Austin Purnell

William G. Williams, III, Mayor

Kelsey Jensen

From: Ivy Wells
Sent: Wednesday, September 23, 2020 2:02 PM
To: Kelsey Jensen; Jeffrey Fleetwood
Cc: Allison Early
Subject: Addition to Council Meeting Agenda

Please add:

Strategic Demolition Grant and Community Legacy Grant: Ivy Wells

Community Legacy GRANT Program

The Community Legacy program provides local governments and community development organizations with funding for essential projects aimed at strengthening communities through activities such as business retention and attraction, encouraging homeownership and commercial revitalization.

Would like to apply to continue our Façade Grant program to the downtown commercial district and to purchase historic street lamps for Pitts St.

Would like to apply for \$100,000 in grant funding from the Maryland Department of Housing and Community Development.

Strategic Demolition GRANT Fund

The Strategic Demolition Fund seeks to catalyze activities that accelerate economic development and job production in existing Maryland communities. The Fund aims to improve the economic viability of "grey field development," which often faces more barriers than sprawling "green field development." Since funds are limited, awards will focus on those projects that can have a high economic and revitalization impact in their existing communities. Would like to apply for the demolition of the existing buildings at Heron Park. Approved by Worcester County to work with the their grant writer for this.

Would like to apply for \$500,000 in grant funding from the Maryland Department of Housing and Community Development.

There is no match required.

For more info visit: <https://dhcd.maryland.gov/Communities/Pages/programs/default.aspx>



**Everyone Counts.
April 1 - July 31**

census.maryland.gov or 2020census.gov

**Ivy Wells - Economic & Community Development Director
Town of Berlin**

10 William Street, Berlin, MD 21811

Office: 410-629-1722 | Fax: 410-641-2316
iwells@berlinmd.gov | berlinmd.gov



MOTION OF THE MAYOR AND COUNCIL 2020-26

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN APPROVING THE SECOND AMENDMENT TO THE LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC. (AT&T)

APPROVED THIS ____ DAY OF _____, 2020 BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING AND ____ ABSENT.

ELROY BRITTINGHAM, SR. VICE PRESIDENT

APPROVED THIS ____ DAY OF _____, 2020 BY THE MAYOR OF THE TOWN OF BERLIN.

WM. GEE WILLIAMS, III, MAYOR

ATTEST: _____
JEFFREY FLEETWOOD
TOWN ADMINISTRATOR

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT ("Second Amendment") dated as of the later date below is by and between The Mayor and Council of Berlin, a municipality in the State of Maryland, having a mailing address at 10 William Street, Berlin, MD 21811 (hereinafter referred to as "Landlord") and New Cingular Wireless PCS, LLC, having a mailing address at 1025 Lenox Park Blvd NE 3rd Floor, Atlanta, GA 30319 (hereinafter referred to as "Tenant").

WHEREAS, Landlord and Tenant entered into a Lease Agreement dated May 22, 2003, as amended by First Amendment to Lease Agreement dated December 24, 2012 (collectively the "Agreement"), whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at Franklin Avenue, Berlin, Maryland 21811 in the County of Worcester, State of Maryland; and

WHEREAS, the term of the Agreement will expire on June 30, 2028, and the parties mutually desire to renew the Agreement, memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions contained herein; and

WHEREAS, Landlord and Tenant desire to extend the term of the Agreement; and

WHEREAS, Landlord and Tenant desire to modify, as set forth herein, the Rent (as defined below) payable under the Agreement; and

WHEREAS, Landlord and Tenant desire to amend Tenant's Permitted Use of the Premises; and

WHEREAS, Landlord and Tenant, in their mutual interest, further wish to amend the Agreement as set forth below.

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

- 1. Term.** The Term of the Agreement shall be amended to provide that commencing on July 1, 2028, will be automatically renewed, upon the same terms and conditions of the Agreement, for five (5) additional sixty (60) month terms (each an "Additional Extension Term"). Hereafter, "Term" shall include the Current Term, any applicable Extension Term, and any applicable Additional Extension Term. The Terms will automatically renew without further action by Tenant, unless Tenant notifies Landlord in writing of Tenant's intention not to renew the Agreement at least sixty (60) days prior to the expiration of the Current Term, any Extension Term, or any Additional Extension Term. Landlord agrees and acknowledges that, except as such permitted use or other rights may be amended herein, Tenant may continue to use and exercise its rights under the Agreement as permitted prior to the first Additional Extension Term.

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
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Address: Franklin Avenue, Berlin, MD 21811

2. **Acknowledgement.** Landlord acknowledges that: 1) this Amendment is entered into of the Landlord's free will and volition; 2) Landlord has read and understands this Amendment and the underlying Agreement and, prior to execution of the Amendment, was free to consult with counsel of its choosing regarding Landlord's decision to enter into this Amendment and to have counsel review the terms and conditions of the Amendment; 3) Landlord has been advised and is informed that should Landlord not enter into this Amendment, the underlying Agreement between Landlord and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect.
3. **Modification of Rent.** Commencing on July 1, 2021, the current Rent payable under the Agreement shall be Three-Thousand, Two-Hundred and Eighty-Three Dollars and 64/100 (\$3,283.64) per month, and shall continue during the Term, subject to adjustment as provided herein.
4. **Future Rent Increase Payments.** The Agreement is amended to provide that commencing on July 1, 2022 and on the anniversary of such date each year thereafter,, Rent shall increase by one percent (1%) over the Rent paid during the previous year. For clarity, Section 4(b) of the Agreement and Section 2 of the First Amendment are hereby deleted and superseded by this Section 4 of the Second Amendment.
5. **Notices.** Section 16 of the Agreement is hereby deleted in its entirety and replaced with the following: NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows.

As to Tenant:

New Cingular Wireless PCS, LLC,
Attn: Network Real Estate Administration;
Cell Site #: 2799, Cell Site Name: AWE - Berlin WT (MD)
Fixed Asset No: 10069658
1025 Lenox Park Blvd NE
3rd Floor
Atlanta, GA 30319

With a required copy to:

New Cingular Wireless PCS, LLC,
Attn.: AT&T Legal Department - Network Counsel;

Re: Cell Site #: 2799, Cell Site Name: AWE - Berlin WT (MD)
Fixed Asset No: 10069658
208 S. Akard Street
Dallas, TX 75202-4206

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

As to Landlord:
The Mayor and Council of Berlin
10 William Street
Berlin, MD 21811

6. **Permitted Use.** Section 2 of the Agreement is hereby amended to include the following: Tenant, its personnel, invitees, contractors, agents, subtenant, or its authorized sub tenant, or assigns may use the Premises and the Communications Facility, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, expand, including but not limited to the number and type(s) of antennas, or refurbish the Communications Facility and/or improvements thereon, or relocate the same within the Premises at any time during the Term of this Agreement for any reason, or in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services or for any other reason. Landlord shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. If Landlord does not comply with the terms of this section, in addition to any other rights it may have at law, Tenant may terminate this Agreement and shall have no further liability to Landlord. If Landlord does not comply with the terms of this section, Tenant will have the right to exercise any and all rights available to it under law and equity, including the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant.
7. **Removal/Restoration.** In addition to the terms set forth in the Agreement, Landlord agrees that the Communications Facility and any related equipment brought to the Premises by Tenant, its agents, contractors, predecessors-in-interest or subtenants, shall be and remain Tenant's personal property or the personal property of its subtenant(s), as the case may be. Landlord waives any and all rights it may have, including any rights it may have in its capacity as Landlord under the Agreement to assert any liens, encumbrances or adverse claims, statutory or otherwise, related to or in connection with the Communications Facility or any portion thereof. Tenant, in its sole discretion, may remove the Communications Facility or any portion of the Communications Facility at any time during the Term of the Agreement, without notice to Landlord and without Landlord's consent. Notwithstanding any terms to contrary, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation, nor will Tenant be required to remove from the Premises or the Property any foundations or underground utilities. Tenant, may, in its sole discretion, transfer any improvements or alterations to the Premises to Landlord at any time during the Term of the Agreement without notice to the Landlord and without the Landlord's consent.
8. **SALE OF PROPERTY.**
 - (a) Landlord shall not be prohibited from the selling, leasing or use of any of the Property or the surrounding property except as provided below.
 - (b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the

Cell Site No.: 2799
Cell Site Name: Berlin WT
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Property or surrounding property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this subsection (b) to Tenant. Until Tenant receives all such documents, Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed AT&T Payment Direction Form
- vii. Full contact information for new Landlord including phone

number(s)

(c) Landlord agrees not to sell, lease or use any areas of the Property or surrounding property for the installation, operation or maintenance of other wireless Communications Facility if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord or Landlord's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the surrounding property for purposes of any installation, operation or maintenance of any other wireless Communications Facility or equipment.

(d) The provisions of this Section shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

9. **RIGHT OF FIRST REFUSAL.** Notwithstanding any other provisions contained in the Agreement, if at any time after the Effective Date, Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with this Agreement or an offer to purchase an easement with respect to the Premises ("**Offer**"), Landlord shall immediately furnish Tenant with a copy of the Offer. Tenant shall have the right within ninety (90) days after it receives such copy to match the financial terms of the Offer and agree in writing to match such terms of the Offer. Such writing shall be in the form of a contract substantially similar to the Offer, but Tenant may assign its rights to a third party. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the ninety (90) day period, Landlord may sell, convey, assign or transfer such property interest in or related to the Premises pursuant to the Offer, subject to the terms of this Agreement. If Landlord attempts to sell, convey, assign or transfer such property interest in or related to the Premises without complying with this Section 9, the sale, conveyance, assignment or transfer

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
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Address: Franklin Avenue, Berlin, MD 21811

shall be void. Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Landlord complies with this Section 9. Tenant's failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Section 9 with respect to any future proposed conveyances as described herein.

[NO MORE TEXT ON THIS PAGE - SIGNATURES TO FOLLOW ON NEXT PAGE]

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Second Amendment to Lease Agreement on the date and year below.

LANDLORD:
The Mayor and Council of Berlin

TENANT:
New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

LANDLORD ACKNOWLEDGEMENT

CORPORATE ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____)

I CERTIFY that on _____, 201__,
_____ [name of representative] personally came before me and
acknowledged under oath that he or she:

- (a) is the _____ [title] of _____
[name of corporation], the corporation named in the attached instrument;
(b) was authorized to execute this instrument on behalf of the corporation; and
(c) executed the instrument as the act of the corporation.

Notary Public: _____
My Commission Expires: _____

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

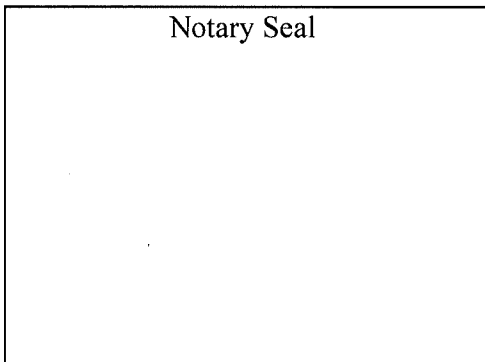
Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

TENANT ACKNOWLEDGEMENT

STATE OF _____)
) SS.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of AT&T Mobility Corporation, the Manager of **New Cingular Wireless PCS, LLC, a Delaware limited liability company**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.



(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary Public in and for the State of

My appointment expires: _____

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

Attachment 1

Memorandum of Agreement

Prepared by:

Teresa M Davis
Smartlink LLC
14 Walsh Drive
Suite 300
Parsippany NJ, 07054

Return to:

Phillips Lytle, LLC
One Canalside
125 Main Street
Buffalo, NY 14203-2887

Re: Cell Site #:2799; Cell Site Name: Berlin WT
Fixed Asset Number: 10069658
State: Maryland
County: Worcester

MEMORANDUM OF LEASE

This Memorandum of Agreement is entered into on this ____ day of _____, 20____, by and between The Mayor and Council of Berlin, a municipality in the State of Maryland, having a mailing address of 10 William Street, Berlin, MD 21811 ("**Landlord**") and New Cingular Wireless PCS, LLC, having a mailing address of 1025 Lenox Park Blvd NE 3rd Floor Atlanta, GA 30319 ("**Tenant**").

1. Landlord and Tenant entered into a certain Lease Agreement ("**Agreement**") on the 22nd day of May, 2003, as amended by that certain First Amendment to Lease Agreement on the 24th day of December, 2012 for the purpose of installing, operating and maintaining a Communications Facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The Term of the Agreement will be extended for an additional five (5), five (5) year extension terms, ("each an **Additional Extension Term**") commencing on July 1, 2028.
3. The portion of the land being leased to Tenant (the "**Premises**") is described in **Exhibit 1** annexed hereto.

Cell Site No.: 2799
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Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

4. This Memorandum of Agreement is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Agreement and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

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

“LANDLORD”

The Mayor and Council of Berlin

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

“TENANT”

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: _____
Its: Area Manager
Date: _____

[ACKNOWLEDGEMENTS APPEAR ON NEXT PAGE]

Cell Site No.: 2799
Cell Site Name: Berlin WT
Fixed Asset No.: 10069658
Market: WABA
Address: Franklin Avenue, Berlin, MD 21811

LANDLORD ACKNOWLEDGEMENT

STATE OF _____
COUNTY OF _____

On the ____ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public
Printed Name: _____
My Commission Expires: _____

TENANT ACKNOWLEDGEMENT

STATE OF _____
COUNTY OF _____

On the ____ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of AT&T Mobility Corporation, the Manager of **New Cingular Wireless PCS, LLC, a Delaware limited liability company**, which the individual(s) acted, executed the instrument.

Notary Public
Printed Name: _____
My Commission Expires: _____

Cell Site No.: 2799
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EXHIBIT 1

DESCRIPTION OF PREMISES

Page 1 of 1

to the Memorandum of Agreement dated _____, 20____, by and between The Mayor and Council of Berlin, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware liability company, as Tenant.

The Premises are described and/or depicted as follows:

Franklin Avenue, Berlin, Maryland 21811 in the County of Worcester, State of Maryland