

Office of Facilities Design & Construction
Raul F. Perez, Chief Facilities Design & Construction Officer

SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE AMENDMENTS TO THE LEASE AGREEMENTS BETWEEN THE SCHOOL BOARD AND NEW CINGULAR WIRELESS PCS, LLC (“AT&T”) FOR CONTINUED USE BY AT&T OF A PORTION OF THE CAMPUS OF BENT TREE ELEMENTARY SCHOOL AND A PORTION OF THE CAMPUS OF CHRISTINA M. EVE ELEMENTARY SCHOOL

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC PLAN: EFFECTIVE & SUSTAINABLE OPERATIONAL PRACTICES

Background

New Cingular Wireless PCS, LLC (“AT&T”) currently leases a portion of the Christina M. Eve Elementary School (“Christina Eve”) and Bent Tree Elementary School (“Bent Tree”) campuses for the installation and operation of a cellular telecommunications tower. The current lease agreement with AT&T at both school campuses (“Current Leases”) will expire on March 31, 2025. In anticipation of the expiration of the above referenced Current Lease Agreements, the District issued Invitation To Bid ITB-24-025-VF (“ITB”) seeking a successor cell service provider to operate commercial telecommunications facilities on both sites subsequent to the Current Leases’ expiration. For both locations, Cellco Partnership d/b/a Verizon Wireless (“Verizon”) was designated the successful proposer, and the Board at its meeting of November 20, 2024 awarded the bid to Verizon. Subsequent to award of the bid, Verizon indicated a need to conduct extensive due diligence investigations at both locations prior to entering into the applicable lease agreements, and these due diligence activities are ongoing.

At the time of the award to Verizon, District staff determined that it would be desirable to issue a new public solicitation to provide for a cell service co-locator on the cell towers at Christina Eve and at Bent Tree to provide additional rental income to the District. Under this scenario, Verizon would be designated the prime vendor (per the above referenced ITB), and the successful co-locator (as established under the proposed public solicitation), would be designated as a co-locator. However, due to Verizon’s extended due diligence investigations, staff is unable to determine the availability and location on each cell tower that would be usable for installation and operation of a co-locator’s telecommunications equipment. District staff have advised Verizon that its due diligence must be completed by a time certain.

Proposed Board Action

AT&T has advised that it will respond to a public solicitation as a possible co-locator on each cell tower and is seeking to remain as a tenant until such time. The proposed solicitation for a co-locator at each site cannot be completed, nor can a Board award, prior to the March 31, 2025 expiration of the two lease agreements with AT&T. As such, staff is recommending that the AT&T lease agreements at Christina Eve and at Bent Tree be amended to extend the term for ninety (90) days from April 1, 2025 through June 30, 2025. Staff intends to issue the above referenced solicitation for a co-locator at each location, with a proposed award to be presented to the Board no later than its June 2025 meeting.

The Chief Operating Officer, District Operations, and the Chief Facilities Design and Construction Officer, recommend entering into lease amendments (“Lease Amendments”) with AT&T at Christina Eve and at Bent Tree for this purpose. Accordingly, it is recommended that the Board authorize the Superintendent to finalize negotiations and execute Lease Amendments to the Current Leases with AT&T for continued use of a portion of the campus of Bent Tree and a portion of the campus of Christina Eve, for the period of April 1, 2025 through and including June 30, 2025.

The proposed Lease Amendments have been reviewed by the Office of the General Counsel and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, and found to be in compliance. A copy of each Lease Amendment in its final form is attached hereto.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, upon its determination that entering into the agreements described herein is in the best interest of the Board, authorize the Superintendent to finalize negotiations and execute amendments to the Lease Agreements between the School Board and New Cingular Wireless PCS, LLC (“AT&T”) for continued use by AT&T of a portion of the campus of Bent Tree Elementary School, located at 4861 SW 140 Avenue, Miami, and a portion of the campus of Christina M. Eve Elementary School, located at 16251 SW 99 Street, Miami, to extend the term of both lease agreements from April 1, 2025 through and including June 30, 2025, and substantially in conformance with the other terms and conditions set forth in the agenda item.

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT TO LEASE AGREEMENT (the "**Third Amendment**") is made and entered into this ___ day of _____, 20___, by and between **THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**, a body corporate and politic existing under the laws of the State of Florida (the "**LESSOR**" or "**School District**"), and **NEW CINGULAR WIRELESS PCS, LLC**, a Delaware limited liability company (the "**LESSEE**" or "**AT&T**"). The LESSOR and LESSEE are sometimes referred to in this Second Amendment individually as "**Party**" and collectively as the "**Parties**."

WITNESSETH

WHEREAS, the LESSOR owns and has under its jurisdiction certain real property located at 4861 SW 140 Avenue, Miami, Florida, more particularly described as Folio #30-4922-002-0020, and utilized by LESSOR as Bent Tree Elementary School ("**School**"); and

WHEREAS, since July 1998, LESSEE has used a telecommunications tower on a portion of the School campus to operate its commercial cellular communications services, under that certain July 1, 1998 lease agreement between LESSEE and LESSOR; and

WHEREAS, The School Board of Miami-Dade County, Florida, at its meeting of November 15, 2023, School Board Agenda Item F-2, Board Action # 123,022, approved a First Amendment to Lease Agreement (the "**First Amendment**"), which extended the term of the lease agreement to December 31, 2024; and

WHEREAS, in anticipation of the December 31, 2024 expiration of the lease agreement, the District issued Invitation To Bid ITB-24-025-VF ("**ITB**") seeking a successor cell service provider to operate commercial telecommunications facilities on the site, and, as provided for in the above referenced November 15, 2023 Board action, the District entered into a December 20, 2024 Second Amendment ("**Second Amendment**"), extending the lease term for an additional ninety (90) days to March 31, 2025, to facilitate the procurement process. The lease agreement as amended by the First Amendment and by the Second Amendment is hereinafter referred to collectively as the "**Lease Agreement**"; and

WHEREAS, bids were received for the above referenced ITB from Cellco Partnership d/b/a Verizon Wireless ("**Verizon**"), and from AT&T, and Verizon was designated the successful proposer, and the Board, at its meeting of November 20, 2024 awarded the bid to Verizon. Subsequent to award of the bid, Verizon indicated a need to conduct extensive due diligence investigations at the site prior to entering into the applicable lease agreement, and these due diligence activities are ongoing; and

WHEREAS, at the time of the award to Verizon, District staff determined that it would be desirable to issue a new public solicitation to provide for a cell service co-locator

on the cell tower (“**Co-locator**”) along with Verizon, with Verizon designated the prime vendor (as established under the above referenced ITB), and the successful Co-locator (as established under the proposed public solicitation), to be designated as a Co-locator, subordinate to Verizon; and

WHEREAS, due to Verizon’s extended due diligence investigations, staff is unable to determine the availability and location on the cell tower that would be usable for installation and operation of a Co-locator’s telecommunications equipment. Further, AT&T has advised that it will respond to a public solicitation as a possible Co-locator on the cell tower, and is seeking to remain as a tenant until such time; and

WHEREAS, the Parties are desirous of entering into this Third Amendment to extend the term of the Lease Agreement for ninety (90) days (April 1, 2025 through and including June 30, 2025), during which time Verizon will be required to finalize all due diligence activities and execute the subject lease agreement. In addition, based in part on the actions of Verizon, staff intends to issue the above referenced solicitation for a possible Co-locator on the tower; and

WHEREAS, the School Board of Miami-Dade County, Florida, has authorized this Third Amendment in accordance with Board Item No. F-____, Board Action No. _____, at its meeting of _____, 20____; and

WHEREAS, LESSEE has authorized all signatories to this Third Amendment, at a meeting duly noticed, held on _____, 20____ in accordance with its By-Laws and regulations, and at which meeting a quorum was present, to execute this Third Amendment on its behalf, and a duly executed Resolution documenting same is attached hereto as **Exhibit “F”**.

NOW, THEREFORE, for and in consideration of the conditions and covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Article II (TERM) is hereby amended to add the following language:

“Effective with the Effective Date of Third Amendment, as such term is defined below, the term of the Lease Agreement shall continue uninterrupted, and shall expire at 11:59 p.m., on June 30, 2025, unless terminated sooner as provided for in the Lease Agreement. All other provisions of this Article II, as amended, shall remain unchanged.”

3. Article III (CONSIDERATION) is hereby amended to add the following language:

“Effective with the Effective Date of Third Amendment, the annual rental rate shall remain at \$35,831.81 (\$2,985.98 per month), with the total amount due for the period of April 1, 2025 through and including June 30, 2025 of \$8,957.94 to be due and payable to LESSOR concurrent with the Effective Date of Third Amendment. All other provisions of this Article III, as amended, shall remain unchanged.”

4. A new Article XLII (MISCELLANEOUS) is added as follows:

“A. **AFFIDAVIT**: Section 787.06(13), Florida Statutes, requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity, under penalty of perjury, that the nongovernmental entity does not use coercion for labor or services as defined in that statute. In compliance with the Florida Statute, and as a condition precedent to the Commencement of this Third Amendment, the LESSEE shall execute the attached affidavit, which shall be attached hereto and become a part hereof as **Exhibit “G”**.

B. **E-VERIFY**: As per Florida Statutes, as amended from time to time, LESSEE shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. Should LESSEE utilize a subcontractor to perform services under this Lease Agreement, LESSEE shall obtain an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. If LESSEE fails to obtain the Affidavit from subcontractor and/or register with and use the E-Verify system, School Board shall terminate this Lease Agreement immediately. In addition, the LESSEE may not be awarded a public contract for at least one (1) year after the date on which the contract was terminated. A contractor is liable for any additional costs incurred by a public employer as a result of the termination of a contract.”

5. The effective date of this Third Amendment shall be the date on which the last of the Parties executes this Third Amendment (“**Effective Date of Third Amendment**”).

6. Except as amended by the First Amendment, the Second Amendment and this Third Amendment, all other terms and conditions of the Lease Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the LESSOR and LESSEE have caused this Third Amendment to be executed by their respective and duly authorized officers the day and year first hereinabove written.

WITNESSES AS TO THE BOARD:

**BOARD:
THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA**

Print
Name: _____
Address: 1450 NE 2 Ave., Miami, Fl. 33132

By: _____
Dr. Jose L. Dotres
Superintendent of Schools

Date: _____

Print
Name: _____
Address: 1450 NE 2 Ave., Miami, Fl. 33132

RECOMMENDED:

**TO THE BOARD: APPROVED AS TO
RISK MANAGEMENT ISSUES:**

Office of Risk and Benefits Management

Raul F. Perez
Chief Facilities Design & Construction
Officer

Date: _____

Risk and Benefits Officer
Date: _____

**TO THE BOARD: APPROVED AS TO
TREASURY MANAGEMENT ISSUES:**

Office of Treasury Management

**TO THE BOARD: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

Treasurer
Date: _____

School Board General Counsel
Date: _____

WITNESSES AS TO LESSEE

LESSEE:

NEW CINGULAR WIRELESS PCS, LLC

Print
Name: _____
Address: _____

By: _____
Name: _____
Title: _____
Address: _____
Date: _____

Print
Name: _____
Address: _____

State of Florida

Affidavit Regarding the Use of Coercion for Labor and Services

Respondent Vendor Name: _____
Vendor FEIN: _____
Vendor's Authorized Representative Name and Title: _____
Address: _____
City: _____ State: _____ ZIP: _____
Phone Number: _____
Email Address: _____

Section 787.06(13), Florida Statutes requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services as defined in that statute. The School Board of Miami-Dade County, Florida, is a governmental entity for purposes of this statute.

As the person authorized to sign on behalf of Respondent, I certify that the company identified does not:

- Use or threaten to use physical force against any person;
- Restrain, isolate, or confine or threaten to restrain, isolate, or confine any person without lawful authority and against her or his will;
- Use lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroy, conceal, remove, confiscate, withhold, or possess any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
- Cause or threaten to cause financial harm to any person;
- Entice or lure any person by fraud or deceit; or
- Provide a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person.

<p style="text-align: center;">Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.</p>
By: _____ <p style="text-align: center;">AUTHORIZED SIGNATURE</p>
Print Name and Title: _____
Date: _____

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WITNESSETH

WHEREAS, the LESSOR owns and has under its jurisdiction certain real property located at 16251 SW 99 Street, Miami, Florida, more particularly described as Folio #30-5905-012-0360, and utilized by LESSOR as Christina M. Eve Elementary School ("**School**"); and

WHEREAS, since July 1998, LESSEE has used a telecommunications tower on a portion of the School campus to operate its commercial cellular communications services, under that certain July 1, 1998 lease agreement between LESSEE and LESSOR; and

WHEREAS, The School Board of Miami-Dade County, Florida, at its meeting of November 15, 2023, School Board Agenda Item F-3, Board Action # 123,023, approved a First Amendment to Lease Agreement (the "**First Amendment**"), which extended the term of the lease agreement to December 31, 2024; and

WHEREAS, in anticipation of the December 31, 2024 expiration of the lease agreement, the District issued Invitation To Bid ITB-24-025-VF ("**ITB**") seeking a successor cell service provider to operate commercial telecommunications facilities on the site, and, as provided for in the above referenced November 15, 2023 Board action, the District entered into a December 20, 2024 Second Amendment ("**Second Amendment**"), extending the lease term for an additional ninety (90) days to March 31, 2025, to facilitate the procurement process. The lease agreement as amended by the First Amendment and by the Second Amendment is hereinafter referred to collectively as the "**Lease Agreement**"; and

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WHEREAS, at the time of the award to Verizon, District staff determined that it would be desirable to issue a new public solicitation to provide for a cell service co-locator on the cell tower ("**Co-locator**") along with Verizon, with Verizon designated the prime vendor (as established under the above referenced ITB), and the successful Co-locator (as established under the proposed public solicitation), to be designated as a Co-locator, subordinate to Verizon; and

WHEREAS, due to Verizon's extended due diligence investigations, staff is unable to determine the availability and location on the cell tower that would be usable for installation and operation of a Co-locator's telecommunications equipment. Further, AT&T has advised that it will respond to a public solicitation as a possible Co-locator on the cell tower, and is seeking to remain as a tenant until such time; and

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WITNESSES AS TO THE BOARD:

**BOARD:
THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA**

Print
Name: _____
Address: 1450 NE 2 Ave., Miami, Fl. 33132

By: _____
Dr. Jose L. Dotres
Superintendent of Schools

Date: _____

Print
Name: _____
Address: 1450 NE 2 Ave., Miami, Fl. 33132

RECOMMENDED:

**TO THE BOARD: APPROVED AS TO
RISK MANAGEMENT ISSUES:**

Office of Risk and Benefits Management

Raul F. Perez
Chief Facilities Design & Construction
Officer

Date: _____

Risk and Benefits Officer
Date: _____

**TO THE BOARD: APPROVED AS TO
TREASURY MANAGEMENT ISSUES:**

Office of Treasury Management

**TO THE BOARD: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

Treasurer
Date: _____

School Board General Counsel
Date: _____

WITNESSES AS TO LESSEE

LESSEE:

NEW CINGULAR WIRELESS PCS, LLC

Print
Name: _____
Address: _____

By: _____
Name: _____
Title: _____
Address: _____
Date: _____

Print
Name: _____
Address: _____

