

Amended and Restated  
Communication Site Lease

This Amended and Restated Communication Site Lease ("Lease") is dated as of April 1, 2016 (the "Effective Date"), and is between NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company (the "Tenant"), and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the "County").

Recitals

- A. Tenant is the successor-in-interest to Bay Area Cellular Telephone Company (the "Original Tenant"), as tenant, under a lease between the County and the Original Tenant that commenced July 1, 1992 (the "Original Lease").
- B. The initial term of the Original Lease was ten years. Under the terms of the Original Lease, the initial term was extended for an additional ten years, through June 30, 2012. On June 30, 2012, the parties agreed to extend the Original Lease on a month-to-month basis.
- C. Under the terms of the Original Lease, the Original Tenant was permitted to construct and install a variety of improvements on County-owned property located at 1850 Muir Road, Martinez, California (the "Site"). The parties also agreed that, in lieu of rent during the initial term, certain improvements would become the property of the County. All such improvements are the "County Facility." All other improvements constructed or installed by the Original Tenant or the Tenant on the Site are the "Tenant Facility."
- D. The County Facility consists of (i) a 140-foot high, three-legged antenna tower (the "Tower"), (ii) an approximately 500 square foot structure used to house assorted communications equipment (the "County Vault"), and (iii) all equipment located in or on the County Vault, including radios, communications equipment, conduits, wires, and utility connections. The location of the Tower and the County Vault are shown on Exhibit A. In addition, the County has installed in its vault and on the Tower, a variety of equipment and improvements, including radios, antennas, microwave dishes, conduits, wires, and utility connections (together, the "County Equipment").
- E. The Tenant Facility consists of (i) an approximately 500 square foot structure used to house assorted communications equipment (the "Tenant Vault"), and (ii) all equipment located in or on the Tenant Vault, including radios, communications equipment, conduits, wires, and utility connections. The location of the Tenant Vault is shown on Exhibit A. In addition, the Tenant has installed a variety of equipment on the Tower, including radios, antennas, microwave dishes, conduits, wires, and utility connections (together with the equipment located in or on the Tenant Vault, the "Tenant Equipment"). As of the Effective Date, the Tenant Equipment includes six panel antennas on the Tower at the 140-foot height level.

- F. The approximately 500 square foot area where the Tenant Vault is located, and wherever the Tenant Equipment is located on the Site is the “Premises.”
- G. The parties desire to amend and restate the Original Lease to extend the term and modify various provisions.

The parties therefore amend and restate the Original Lease in its entirety as follows:

### **AGREEMENT**

1. Lease; Use. The County hereby leases the Premises to Tenant for the purpose of operating a communications facility that transmits and receives wireless communication signals.
2. Term.
  - 2.1 The term of this Lease begins on the Effective Date.
  - 2.2 The initial term of the lease is five years (the “Initial Term”). The Tenant may extend the Initial Term for two successive five-year periods (each, a “Renewal Term”) on the same terms and conditions as set forth herein. The Initial Term and any Renewal Term are the “Term” of this Lease.
  - 2.3 Any holding over after the Term is a tenancy from month to month, subject to the terms of this Lease as far as applicable, except the Rent (as defined below) will be 125% of the rent in effect at the end of the Term.
3. Rent.
  - 3.1 Commencing on the Effective Date, Tenant shall pay rent (“Rent”) to County as follows:
    - A. Initial Term:
      - i. Two Thousand Three Hundred Forty Dollars (\$2,340.00) per month for the period that begins April 1, 2016 and ends March 31, 2017.
      - ii. Two Thousand Four Hundred Ten Dollars (\$2,410.00) per month for the period that begins April 1, 2017 and ends March 31, 2018.
      - iii. Two Thousand Four Hundred Eighty Dollars (\$2,480.00) per per month for the period that begins April 1, 2018 and ends March 31, 2019.
      - iv. Two Thousand Five Hundred Fifty Dollars (\$2,550.00) per month for the period that begins April 1, 2019 and ends March 31, 2020.

- v. Two Thousand Six Hundred Twenty-Seven Dollars (\$2,627.00) per month for the period that begins April 1, 2020 and ends March 31, 2021.

B. First Renewal Term:

- i. Two Thousand Seven Hundred Ten Dollars (\$2,710.00) per month for the period that begins April 1, 2021 and ends March 31, 2022.
- ii. Two Thousand Seven Hundred Ninety Dollars (\$2,790.00) per month for the period that begins April 1, 2022 and ends March 31, 2023.
- iii. Two Thousand Eight Hundred Seventy Dollars (\$2,870.00) per month for the period that begins April 1, 2023 and ends March 31, 2024.
- iv. Two Thousand Nine Hundred Sixty Dollars (\$2,960.00) per month for the period commencing April 1, 2024 and ending March 31, 2025.
- v. Three Thousand Fifty Dollars (\$3,050.00) per month for the period that begins April 1, 2025 and ends March 31, 2026.

C. Second Renewal Term:

- i. Three Thousand One Hundred Forty Dollars (\$3,140.00) per month for the period that begins April 1, 2026 and ends March 31, 2027.
- ii. Three Thousand Two Hundred Forty Dollars (\$3,240.00) per month for the period that begins April 1, 2027 and ends March 31, 2028.
- iii. Three Thousand Three Hundred Thirty Dollars (\$3,330.00) per month for the period that begins April 1, 2028 and ends March 31, 2029.
- iv. Three Thousand Four Hundred Thirty Dollars (\$3,430.00) per month for the period that begins April 1, 2029 and ending March 31, 2030.
- v. Three Thousand Five Hundred Thirty Dollars (\$3,530.00) per month for the period that begins April 1, 2030 and ends March 31, 2031.

3.2 Rent is to be sent to the County at the address set forth in Section 19, Notices. Rent is payable monthly in advance and is due on or before the first day of each month. In partial months, Rent will be prorated based on a 30-day month.

3.3 Upon the agreement of County and Tenant, Tenant may pay Rent by electronic funds transfer. County shall provide Tenant with bank routing information upon request.

4. Security Deposit. To ensure Tenant's satisfactory performance of the terms of this Lease, upon the execution of this Lease, Tenant shall pay to County the sum of Five Thousand Dollars (\$5,000.00) (the "Security Deposit"). The County may hold the

Security Deposit in a separate or general account as it determines in its sole discretion. Any interest accrued on the Security Deposit is for the benefit of County. If County makes a claim against the Security Deposit, Tenant shall restore the Security Deposit to its full amount of Five Thousand Dollars (\$5,000.00) within fifteen (15) days after the County's written demand therefor. After the expiration or earlier termination of this Lease, County shall return to Tenant any unused portion of the Security Deposit held by County with a reasonable accounting for any deductions therefrom, upon the later to occur of (i) ninety (90) days after the expiration or termination, and (ii) ninety (90) days after the removal of the Tenant Vault and/or the Tenant Equipment, if required pursuant to Section 16, Ownership of Improvements, or Section 17, Ownership of Equipment.

5. Maintenance / Utilities.

5.1 Tenant shall keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. County shall maintain the Site and access thereto, in good and tenable condition, subject to reasonable wear and tear and damage from the elements.

5.2 Tenant shall provide electrical service to the Tenant Facility that is separately metered and billed directly to Tenant by the utility company.

6. Taxes. Tenant shall pay personal property taxes assessed against the Tenant Facilities. In addition, Tenant shall pay when due, all real property taxes, possessory interest taxes, and all other taxes, fees and assessments, if any, attributable to this Lease. The Contra Costa County Assessor imposes a mandatory possessory tax on occupants of all County and other publicly owned properties, as of the lien date of January 1 of each year. Tenant recognizes that under this Lease it may be considered by the Assessor to be the occupant of the Premises, and may be subject to this tax. If the Contra Costa Assessor does impose a tax or charge, Tenant is responsible for and shall immediately pay the tax or charge.

7. Access.

7.1 Tenant may access the Premises 24 hours a day, seven days a week. If County fails to provide the access granted by this Section 7, the sole remedy will be specific performance of this Lease.

7.2 At all times when accessing the Premises, Tenant shall cause its employees, agents, and subcontractors to conduct their activities in a manner that does not interfere with or disrupt County's or County's other tenants' operations at the Site.

8. Interference.

8.1 Tenant shall operate the Tenant Facilities in compliance with all Federal Communications Commission ("FCC") requirements including those prohibiting interference to communications facilities of County or other lessees or licensees of the Site as provided herein. Tenant acknowledges and agrees that County may grant a lease, license or other right to a third party for use of the Tower. Such use by a third party may

include constructing, maintaining, securing, and operating a communications facility, (a "Secondary Facility"). Tenant shall use good faith efforts to cause its equipment to not interfere with a Secondary Facility. In the event that the Tenant Equipment interferes with a Secondary Facility, or a Secondary Facility interferes with the Tenant Equipment, Tenant shall reasonably cooperate with the owner of the Secondary Facility to minimize such interference running in either direction. In the event that engineers for Tenant reasonably determine that no amount of reasonable cooperation will resolve an interference problem, the owner of the Secondary Facility will be required to make whatever changes are necessary to eliminate the interference. Tenant shall cooperate fully with the owner of a Secondary Facility in its efforts to eliminate interference, so that such owner may eliminate the interference at a lower cost as a result of such reasonable cooperation by Tenant. In the event interference between the Tenant Equipment and a Secondary Facility is eliminated and Tenant subsequently modifies its equipment in a way that interferes with such Secondary Facility, then Tenant shall use due diligence to eliminate the interference.

8.2 Tenant shall cause the Tenant Facility to not interfere with any existing equipment used by existing tenants of the Site, provided that such existing equipment is operating in compliance with laws. In the event that an existing tenant or a new tenant brings new equipment onto the Site or modifies its equipment such that it interferes with the Tenant Facility or it turns out that the Tenant Equipment interferes with the new equipment, Tenant shall reasonably cooperate with the other tenant to allow the other tenant to minimize such interference being caused by that tenant's modified or new equipment. In the event that Tenant modifies its Tenant Facilities in a way that interferes with another preexisting use of another tenant, then Tenant shall use due diligence to eliminate the interference. In the event that engineers for the Tenant and engineers for the other tenant reasonably determine that no amount of reasonable cooperation will resolve an interference problem, the party who made the change that precipitated the interference will need to make whatever changes are required to eliminate the interference. Tenant shall cooperate fully so that any other tenant who must eliminate interference may do so at a lower cost as the result of such reasonable cooperation by Tenant.

8.3 Tenant shall cause its equipment to not interfere with any existing equipment used by County at the Site. In the event that any Tenant Equipment interferes with equipment used by County, Tenant shall use due diligence to eliminate the interference.

## 9. Default and Right to Cure.

9.1 The following is a default by Tenant and a breach of this Lease: (i) non-payment of Rent when due, and (ii) Tenant's failure to perform any other term or condition under this Lease within thirty (30) days after receipt of written notice from County specifying the failure. A failure to cure a non-monetary default will not be deemed to exist if Tenant has commenced efforts to cure such default within the 30-day cure period, provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure

period, County has the right to exercise any and all rights and remedies available to it under law and equity, including termination of this Lease pursuant to Section 10, Termination.

9.2 The following is a default by County and a breach of this Lease: County's failure to provide Tenant access to the Premises within 24 hours of receipt of notice from Tenant, or to perform any term or condition under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if County has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of County.

10. Termination. This Lease may be terminated by County with three days written notice for non-payment of Rent in accordance with California statutory due process of law.

10.1 For any other default by Tenant that continues beyond any applicable cure period, this Lease may be terminated by County with thirty days prior written notice.

10.2 This Lease may be terminated by County upon thirty days prior written notice to Tenant if Tenant is delinquent in paying Rent for any two months in any consecutive twelve-month period during the Term.

11. Damage or Destruction. If the Site or the Tenant Facility is damaged, destroyed, condemned or transferred in lieu of condemnation, Tenant may elect to terminate this Lease as of the date of the damage, destruction, condemnation or transfer by giving fifteen days prior notice to County. Notwithstanding the foregoing, County is not responsible for any acts of vandalism occurring on the Tenant Facility. Should any vandalism to the Tenant Facility occur, any repairs are the sole responsibility of the Tenant, and Tenant may not terminate this Lease without the prior written approval of the County. Furthermore, in the event of damage to the Tenant Facility due to acts of God, war, strikes, fires, floods, or power failures, Tenant acknowledges that County is not responsible for any repairs necessary to the Tenant Facility.

12. Condemnation. In the event County receives notification of any condemnation proceedings affecting the Site, County will provide notice of the proceeding to Tenant as soon as practicable. If a condemning authority takes all of the Site, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Lease will terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Site, Tenant, in Tenant's sole discretion, is unable to use the Site for the purposes intended hereunder, or such condemnation is reasonably expected to disrupt Tenant's operations at the Site for more than forty-five days, Tenant may terminate this Lease as of the date the condemning authority takes such possession. Tenant's option to terminate pursuant to this Section 12 must be exercised in writing within fifteen days after County gives Tenant written notice of the condemnation (or in absence of such notice, within fifteen days after

the condemning authority takes possession). The parties are each entitled to pursue their own separate awards in the condemnation proceedings, which for Tenant will include, where applicable, the depreciated value of its Tenant Facilities, moving expenses, prepaid Rent, and business dislocation expenses, provided that any award to Tenant does not diminish County's recovery.

13. Insurance and Indemnity.

13.1 Tenant shall purchase and maintain, at its own cost and expense, throughout the Term and until the Tenant Facility has been removed, the following commercial general liability and property damage policies as County may deem necessary. Such policies shall include, at a minimum, (i) "All Risk" property insurance for the Tenant Facility replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of Two Million Five Hundred Thousand Dollars \$2,500,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (iii) Workers' Compensation Insurance as required by law. The coverage afforded by Tenant's commercial general liability insurance shall apply to County as an additional insured. Tenant shall provide County with a Certificate of Liability Insurance and evidence that Contra Costa County, its officers, agents, and employees have been named as additional insureds. Such Certificate of Liability Insurance must include a provision that insurers will provide written notice to County at least thirty calendar days before cancellation (ten days notice due to nonpayment).

13.2 Tenant shall indemnify, defend, and protect County and its respective officers, agents, and employees (the "Owner Parties") and hold the Owner Parties harmless from any claims, losses, damages, injuries, liabilities, penalties, forfeitures, violations, costs and expenses, including reasonable attorneys' fees (collectively, "Claims") caused by (i) any occurrence in, upon, at or about the Site; (ii) Tenant's occupancy, use, construction of or on the Premises; (iii) the operation of the business of the Tenant on the Site; and (iv) any act or failure to act, occasioned wholly or in part by Tenant, its agents, employees, or invitees. Nothing contained herein may be construed to make Tenant liable for any injury or loss caused by the negligence or willful misconduct of County or any agent, representative or employee of County.

13.3 Notwithstanding anything to the contrary in this Lease, Tenant and County each waives any claims that it may have against the other with respect to consequential, incidental or special damages.

13.4 The provisions of this Section 13 shall survive the expiration or earlier termination of this Lease.

14. Assignment and Subletting.

14.1 County may assign this Lease at any time by providing Tenant written notice of same.

14.2 Tenant may not assign this Lease or sublease the Premises, in whole or in part, without County's prior written consent. Notwithstanding the foregoing, this Lease may be sold, assigned or transferred by the Tenant without any approval or consent of County to any entity that acquires, through a merger or acquisition, all or substantially all of Tenant's assets in the market (as defined by the FCC) in which the Tenant Facility is located, provided Tenant gives written notice to County of any such merger or acquisition within thirty (30) days after the close of such merger or acquisition. Such written notice is to include the assignee's name and contact information. Tenant shall pay to County within forty-five (45) days of receipt of funds from each of its subtenants, one-third (1/3) of all rent received by Tenant from any subtenant. Such amount will be added to and considered to be a part of the Rent due from Tenant.

15. Maintenance and Improvements. Tenant may perform all work necessary to maintain the Premises for Tenant's communications operations. Prior to performing any work to add or remove Tenant Equipment to or from the Tower, Tenant shall submit to County, in writing, a description of the work Tenant desires to perform. County shall review the proposal within a reasonable period of time and will notify Tenant, in writing, of its decision to allow or not allow the work. Any work permitted by County is to be performed at Tenant's sole cost and expense and in a good and workmanlike manner. The County reserves the right to increase the Rent if additional Tenant Equipment is added to the Tower.

16. Ownership of Improvements.

16.1 The County Facility is the property of the County.

16.2 Title to the Tenant Vault will remain in Tenant until the expiration, cancellation, or other earlier termination of this Lease. Upon expiration, cancellation, or other earlier termination of this Lease, except as otherwise provided herein, title to the Tenant Vault will automatically vest in County and the Tenant Vault will remain on and will be surrendered with the Premises.

16.3 If County does not desire title to the Tenant Vault, County shall notify Tenant in writing as soon as practicable that the Tenant must remove the Tenant Vault from the Site. If so notified, Tenant must remove the Tenant Vault from the Site within one hundred twenty (120) days following the expiration, cancellation or earlier termination of this Lease. If Tenant fails to remove the Tenant Value, County may remove the Tenant Vault at Tenant's expense, and upon written demand by County, Tenant shall immediately reimburse County, in full, for all of the costs and expenses incurred by County in removing the Tenant Vault.

17. Ownership of Equipment.

17.1 The County Equipment is the property of the County.

17.2 Title to the Tenant Equipment will remain in the Tenant at all times during the Term. Subject to Section 15, Maintenance and Improvements, Tenant has the right to



remove any or all of its personal property from the Premises, provided that upon any such removal, Tenant repairs, at Tenant's expense, any damage that results from such removal and leaves the Site in a clean and neat condition.

17.3 If Tenant fails to remove any portion of the Tenant Equipment from the Premises within fourteen days after the expiration, cancellation, or termination of this Lease, Tenant's right, title and interest in any such equipment automatically transfers to County. If County does not desire title to any portion of the Tenant Equipment that remains on the Site, Lessor shall notify Tenant in writing as soon as practicable of the Tenant Improvements to be removed by Tenant (the "Excluded Equipment"). Tenant shall remove the Excluded Equipment, whether above or below ground, within one hundred twenty (120) days following the expiration, cancellation or earlier termination of this Lease.

18. Surrender of Possession. Upon the expiration, cancellation, or termination of this Lease, Tenant shall surrender to County the Premises and the Tenant Vault in good condition (ordinary wear and tear and destruction to the Premises covered by Section 11, Damage or Destruction, excepted), provided, however, if Tenant is required to remove the Tenant Vault and/or Excluded Equipment, Tenant shall surrender that portion of the Premises occupied by the Tenant Vault and/or the Excluded Equipment within one hundred twenty (120) days after the expiration, cancellation, or termination of this Lease in good condition (ordinary wear and tear and destruction to such Premises covered by Section 11, Damage or Destruction, excepted). If Tenant fails to surrender the Premises to County on expiration, cancellation, or termination of this Lease, Tenant shall defend, indemnify, and hold County harmless from any and all claims, liability, costs, and damages that result from Tenant's failure to surrender the Premises, including, without limitation, claims made by a succeeding tenant or renter.

19. Notices. All notices, requests, demands and other communications hereunder are to be given in writing and will be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent for next-business-day delivery by a nationally recognized overnight carrier to the following addresses:

If to Tenant, to:		If to County, to:
New Cingular Wireless PCS, LLC Attn: Network Real Estate Admin Re: Cell Site #CNU0075/CNU4845 Site Name: Concord (CA) RF Search Ring Name: Concord Fixed Asset No: 10087755 575 Morosgo Drive NE, Suite 13-F West Tower, Atlanta, GA 30324		Contra Costa County Public Works Department Real Estate Division 255 Glacier Drive Martinez, CA 94553 Attn: Principal Real Property Agent Telephone: (925) 313-2220
With a copy of the notice to:		
New Cingular Wireless PCS, LLC Attn: AT&T Legal Department		

Re: Cell Site #CNU0075/CNU4845 Site Name: Concord (CA) RF Search Ring Name: Concord Fixed Asset No: 10087755 206 S. Akard Street Dallas, TX 75202		
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A copy sent to the legal department is an administrative step that, by itself, does not constitute legal notice.

County or Tenant may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder will be deemed received upon actual receipt or refusal to accept delivery.

20. Miscellaneous.

20.1 If Tenant is requested by County to pay Rent to a payee other than County, County shall notify Tenant at least thirty (30) days in advance in writing of the payee's name and address.

20.2 If any provision of this Lease is invalid or unenforceable with respect to any party, the remainder of this Lease will remain binding upon the parties as though the unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects the Lease, then the Lease may be terminated by either party on ten business days' prior written notice to the other party hereto.

20.3 The terms and conditions of this Lease, which by their sense and context survive the termination, cancellation or expiration of this Lease, will so survive.

20.4 This Lease is governed by the laws of the State of California, and binds and inures to the benefit of the successors and permitted assignees of the respective parties. Venue for any litigation is Contra Costa County.

20.5 This Lease extends to and binds the heirs, personal representatives, successors and assigns of the parties hereto.

20.6 This Lease constitutes the entire agreement between the parties, and supersedes all understandings, offers, negotiations and other leases concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments, modifications or waivers of any of the terms and conditions of this Lease must be in writing and executed by both parties.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

The parties are signing this Lease as of the date first above written.

**COUNTY:**

COUNTY OF CONTRA COSTA,  
a political subdivision of the State of  
California

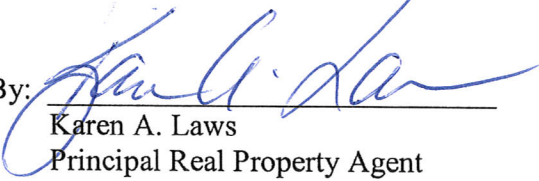
**TENANT:**


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

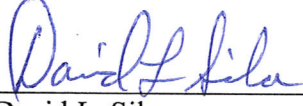
By: \_\_\_\_\_  
Julia R. Bueren  
Director of Public Works


By: AT&T Mobility Corporation  
Its: Manager

**RECOMMENDED FOR APPROVAL:**

By:   
Karen A. Laws  
Principal Real Property Agent

By:   
Name: Michael Guibord  
Director  
Title: Construction & Engineering

By:   
David L. Silva  
Supervising Real Property Agent

By:   
Name: Pat Hamb  
AVP  
Title: Construction & Engineering

APPROVED AS TO FORM:  
Sharon L. Anderson, County Counsel


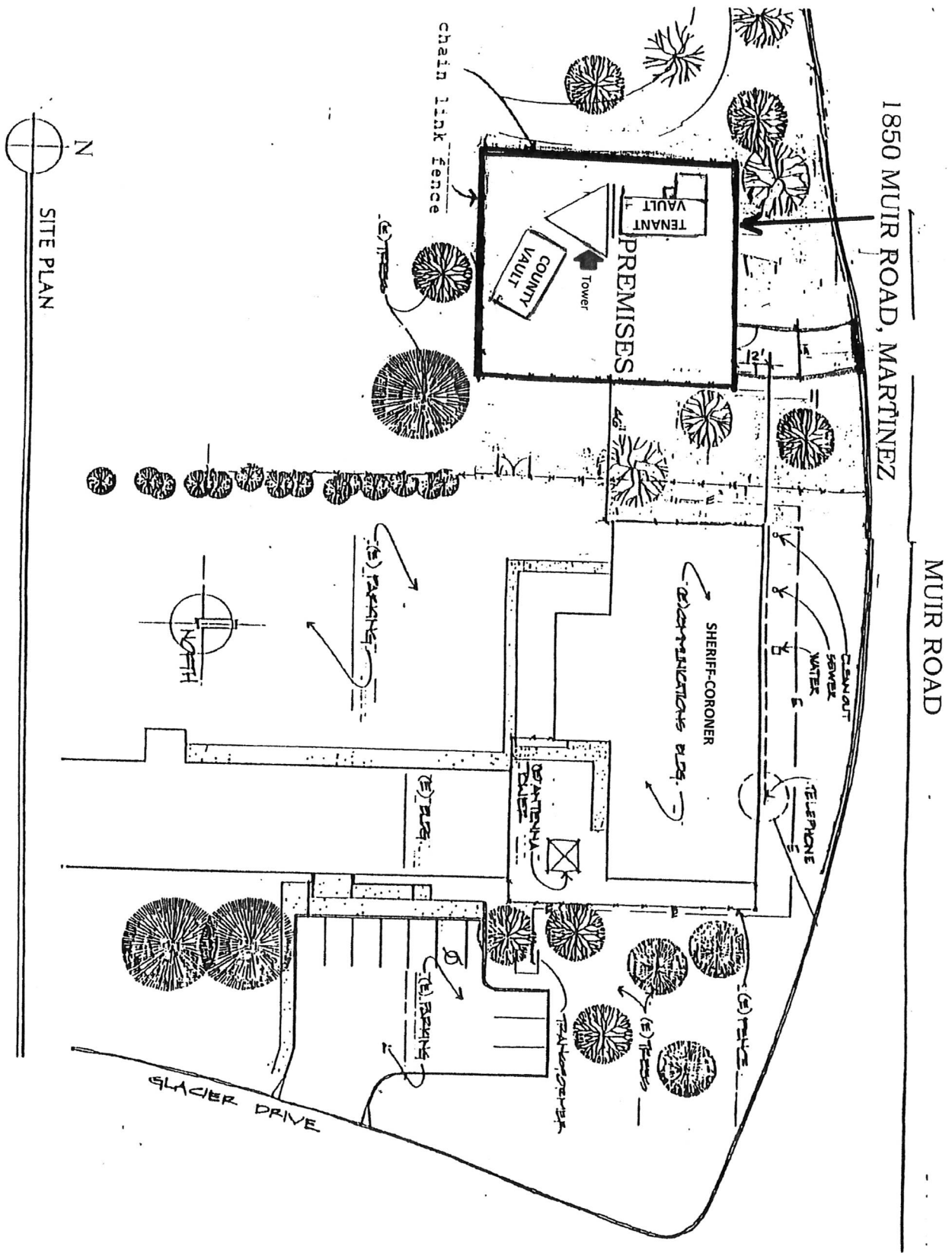
By:   
Kathleen M. Andrus  
Deputy County Counsel

EXHIBIT A

A DRAWING OF THE SITE THAT SHOWS THE LOCATION OF THE BUILDING  
AND THE TOWER IS TO BE PRESENTED HERE OR ATTACHED HERETO



N  
SITE PLAN

1850 MUIR ROAD, MARTINEZ

MUIR ROAD

GLACIER DRIVE

Exhibit A