

TOLLING AGREEMENT

This Tolling Agreement (“Agreement”), dated as of August 15, 2023, is made and entered into by and between New Cingular Wireless PCS, LLC, a Delaware limited liability company d/b/a AT&T Mobility (“AT&T”) and the County of Contra Costa (“County”).

RECITALS

A. On August 16, 2022, AT&T filed an application with the County for a permit to authorize AT&T to construct wireless telecommunications facilities in the public right-of-way located at 5707 Highland Road, San Ramon CA 94583 (County File CDLP22-02051) (the “Application”). The County has determined that the Application is complete.

B. On November 18, 2009, the Federal Communications Commission (the “FCC”) released a Declaratory Ruling clarifying Section 332(c)(7) of the Communications Act. See *In Re: Petition for Declaratory Ruling to Clarify; Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC November 18, 2009) (the “Ruling”); See also 47 CFR 1.6003(c). The Ruling permits a wireless service provider whose application has been pending for a period of 90 days for collocation applications, and 150 days for all other applications, to seek judicial review within 30 days on the basis that a state or local permitting authority failed to act on the application within “a reasonable time.” Ruling, ¶ 45. The Ruling further permits the period for review of an application to be extended by mutual consent. Ruling, ¶ 49.

C. In order to allow the County to act on the Application in an orderly manner, without either party risking the loss of important rights, the parties wish to enter into a tolling agreement.

NOW, THEREFORE, the parties agree as follows:

1. The parties agree that the time period within which the County Zoning Administrator may act on the Application, and within which the County Planning Commission may act on any appeal of the Application, under both California and federal law, shall be extended through November 28, 2023, and that no limitations period under California or federal law for any claim by AT&T of unreasonable or unlawful delay in processing the Application shall commence to run before November 28, 2023.

2. If the County Zoning Administrator has not acted on the Application, and if the County Planning Commission has not acted on any appeal of the County Zoning Administrator’s determinations, by November 28, 2023, this Agreement shall not be construed as an admission by the County that such failure to act is unreasonable or unlawful, nor shall it be construed to waive or otherwise impair the rights of AT&T with respect to any such claim. In addition, this Agreement shall not be construed to waive any claims by the County regarding the validity or applicability of the requirements and deadlines established in the Ruling.

3. This Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original. The individuals whose signatures appear below on behalf of each party are authorized to execute this Agreement on behalf of the respective parties, and to bind them to the terms thereof.

COUNTY OF CONTRA COSTA

**NEW CINGULAR WIRELESS
PCS, LLC
d/b/a AT&T MOBILITY**

By: _____

By: _____

Printed name: _____

Printed name: _____

Title: _____

Title: _____