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Eugene "Gene" Moore Fee: \$42.00  
Cook County Recorder of Deeds  
Date: 05/16/2003 11:21 AM Pg: 1 of 10

*This Document Prepared By And  
When Recorded Return To:*

Richard C. Jones, Jr., Esq.  
Tina M. Jacobs, Esq.  
Tonya M. Parravano, Esq.  
JONES & JACOBS  
77 West Washington Street  
Suite 1615  
Chicago, Illinois 60602  
(312) 419-0700

For Recorder's Use Only

**SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENMENT AGREEMENT**

**THIS AGREEMENT** is made as of May 5, 2003 among SANTA FE PROPERTY, LLC, an Illinois limited liability company, as assignee of SANTA FE CORPORATION, as assignee of JAMES H. SCHUCH and JILL R. SCHUCH, husband and wife ("**Lessor**"), SOUTHWESTERN BELL MOBILE SYSTEMS, LLC, a Delaware limited liability company, d/b/a CINGULAR WIRELESS, as successor in interest to SOUTHWESTERN BELL MOBILE SYSTEMS, INC., d/b/a CELLULAR ONE - CHICAGO, a Delaware and Virginia corporation ("**Lessee**"), and PRAIRIE BANK AND TRUST COMPANY, an Illinois banking association ("**Lender**").

**WITNESSETH:**

- A. Lessor is the record owner of the real property commonly known as 7550 Santa Fe Drive, Hodgkins, Illinois 60625, as legally described in Exhibit "A" attached hereto, including the buildings and all improvements located thereon ("**Property**");
- B. On or about April 17, 1995, Lessor and Lessee entered into that certain Microcell Site Agreement No. C026 (the "**Lease**"), pursuant to which Lessor demises and leases to Lessee a certain portion of the Property as more particularly described in the Lease (the "**Demised Premises**") for the purpose of construction, installation, operation and maintenance of a radio transmission facility consisting of four (4) cellular panel antennas installed atop an approximately forty (40) foot pole and three (3) equipment cabinets installed on a concrete pad at the base of the pole.
- C. Lessor has executed and delivered to Lender a certain Mortgage, Security Agreement and Financing Statement dated as of May 5, 2003, which will be recorded with the Cook County Recorder of Deeds, Cook County, Illinois (the "**Mortgage**"), pledging the Property as security for a certain Promissory Note dated May 5, 2003 (the "**Note**").
- D. The parties hereto desire to establish certain rights, safeguards, obligations and priorities with respect to their respective interests by means of this Agreement.

**NOW, THEREFORE**, in consideration of the respective covenants made herein and of the sum of TEN (\$10.00) DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby mutually covenanted and agreed as follows:

- 1. **Subordination.** The Lease between Lessor and Lessee, as supplemented, amended and assigned from time to time, and any sublease at any time executed by the Lessee, shall be subordinate, inferior and secondary to the liens of the Mortgage placed against the

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Property by Lessor in favor of Lender and to any renewal, modification and extension of such Mortgage and the Note secured thereby.

2. **Non-Disturbance.** In the event of foreclosure of the Mortgage or other enforcement of Lender's rights therein, which foreclosure or enforcement occurs prior to the expiration date of the Lease, including any extensions and renewals of the Lease now provided thereunder, and Lessee is not in default under any of the terms, covenants and conditions of the Lease beyond any applicable grace or cure period, Lender agrees on behalf of itself, its successors and assigns, and on behalf of any purchaser at such foreclosure or sale, that Lessee shall not be disturbed in the quiet and peaceful possession of the Demised Premises.

3. **Attornment.** In the event of foreclosure of the Mortgage or other enforcement of Lender's rights therein, which foreclosure or enforcement occurs prior to the expiration date of the Lease, including any extensions and renewals of the Lease now provided thereunder, Lessee shall attorn to Lender and recognize Lender as its Lessor under the Lease, and Lender shall recognize and accept Lessee as its Lessee thereunder, whereupon the Lease shall continue, without further agreement, in full force and effect as if a direct lease between Lender and Lessee for the remainder of the term thereof, together with all extensions and renewals now provided thereunder, upon the same terms, covenants and conditions as therein provided, and Lender shall thereafter assume and perform all of Lessor's obligations as Lessor under the Lease with the same force and effect as if Lender was originally named therein as Lessor and Lessee shall thereafter make all rent payments directly to Lender. The parties agree that Lender shall not:

- (a) be liable for any previous act or omission of Lessor under the Lease (unless such liability continues during the period that Lender owns the Property);
- (b) be subject to any off-set, defense or counterclaim which shall have theretofore accrued to Lessee against Lessor (unless the event or circumstances giving rise to such off-set, defense or counterclaim continues during the period that Lender owns the Property);
- (c) be bound by any previous modification of the Lease not expressly provided for in the Lease, or by any previous prepayment of rent or additional rent for more than one month which Lessee might have paid to Lessor, unless such modification or prepayment shall have been expressly approved in writing by Lender; and
- (d) be liable for any security deposited under the Lease unless such security has been physically delivered to Lender.

4. **Further Documents.** The foregoing provisions shall be operative and effective without the execution of any further instruments. Lessee agrees, however, to execute and deliver to Lender or to any person to whom Lessee herein agrees to attorn such other instruments as either shall reasonably request in order to evidence and effectuate said provisions, including but not limited to a Tenant Estoppel Certificate of even date herewith.

5. **Notice and Cure.** Lessee agrees that if it alleges a default by Lessor under the Lease:

- (a) a copy of each notice given to Lessor pursuant to the Lease shall also be given to Lender, and no such notice shall be effective for any purpose under the Lease unless so given to Lender; and

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- (b) if Lessor shall fail to cure any default within the time prescribed by the Lease, if any, Lessee shall give further notice of such fact to Lender. Lender shall be allowed such additional time as may be reasonably necessary to cure such default and so long as Lender shall be proceeding diligently to cure the defaults that are reasonably susceptible of cure no such default shall operate or permit Lessee to terminate this Lease.

6. **Notices.** All notices, demands and requests given or required to be given hereunder shall be in writing and shall be deemed to have been properly given when personally served or if sent by United States certified mail, return receipt requested, postage prepaid, addressed as follows:

**IF TO LENDER:**

PRAIRIE BANK AND TRUST COMPANY  
2320 South Route 59  
Plainfield, Illinois 60544  
Attn: Ms. Margaret E. Chung, Asst. Vice President

**IF TO LESSOR:**

SANTA FE PROPERTY, LLC  
7440 Santa Fe Drive  
Hodgkins, Illinois 60625  
Attn: Mr. Patrick Gaughan, President

**IF TO LESSEE:**

SOUTHWESTERN BELL MOBILE SYSTEMS, LLC  
d/b/a CINGULAR WIRELESS  
2000 West Ameritech Center Drive  
Hoffman Estates, Illinois 60195  
Attn: Ms. Marian Taylor

7. **Binding Effect.** The terms, covenants and conditions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
8. **Choice of Law.** This Agreement shall be governed by the laws of the State of Illinois without regard to conflicts of law principles.
9. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.


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IN WITNESS WHEREOF, the undersigned have caused these presents to be executed as of the date first above written.

**LESSOR:**

**SANTA FE PROPERTY, LLC**, an Illinois limited liability company, as assignee of SANTA FE CORPORATION

By:   
Patrick Gaughan  
President

**LESSEE:**

**SOUTHWESTERN BELL MOBILE SYSTEMS, LLC**, a Delaware limited liability company, d/b/a CINGULAR WIRELESS, as successor in interest to SOUTHWESTERN BELL MOBILE SYSTEMS, INC., d/b/a CELLULAR ONE - CHICAGO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**LENDER:**

**PRAIRIE BANK AND TRUST COMPANY**, an Illinois banking association

By: \_\_\_\_\_  
Margaret E. Chung  
Assistant Vice President

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IN WITNESS WHEREOF, the undersigned have caused these presents to be executed as of the date first above written.

**LESSOR:**

**SANTA FE PROPERTY, LLC**, an Illinois limited liability company, as assignee of SANTA FE CORPORATION

By: \_\_\_\_\_  
Patrick Gaughan  
President

**LESSEE:**

**CINGULAR WIRELESS, LLC**, as successor in interest to SOUTHWESTERN BELL MOBILE SYSTEMS, INC., d/b/a CELLULAR ONE - CHICAGO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**LENDER:**

**PRAIRIE BANK AND TRUST COMPANY**, an Illinois banking association

By: Margaret Chung  
Margaret E. Chung  
Assistant Vice President

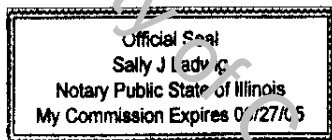
Property of Cook County Clerk's Office

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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that PATRICK GAUGHAN, personally known to me to be the President of **SANTA FE PROPERTY, LLC**, an Illinois limited liability company, and the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of said Company for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 5<sup>th</sup> day of May, 2003



Sally J. Ladwig  
NOTARY PUBLIC

My Commission Expires:

07/27/05

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IN WITNESS WHEREOF, the undersigned have caused these presents to be executed as of the date first above written.

**LESSOR:**

**SANTA FE PROPERTY, LLC**, an Illinois limited liability company, as assignee of **SANTA FE CORPORATION**

By: \_\_\_\_\_

Patrick Gaughan  
President

**LESSEE:**

**SOUTHWESTERN BELL MOBILE SYSTEMS, LLC**, a Delaware limited liability company, d/b/a CINGULAR WIRELESS, as successor in interest to **SOUTHWESTERN BELL MOBILE SYSTEMS, INC.** d/b/a **CELLULAR ONE - CHICAGO**

By: \_\_\_\_\_

Name: Timothy Ronzia  
~~Executive Director~~

Its: Network Operations  
Illinois & Wisconsin

**LENDER:**

**PRAIRIE BANK AND TRUST COMPANY**, an Illinois banking association

By: \_\_\_\_\_

Margaret E. Chung  
Assistant Vice President

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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF Kane        )

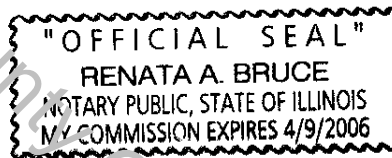
I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that Timothy Ronzio, personally known to me to be the Exec Dir of SOUTHWESTERN BELL MOBILE SYSTEMS, LLC d/b/a CINGULAR WIRELESS, AS SUCCESSOR IN INTEREST TO SOUTHWESTERN BELL MOBILE SYSTEMS, INC. d/b/a CELLULAR ONE - CHICAGO, and the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1 day of May, 2003.

Renata A. Bruce  
NOTARY PUBLIC

My Commission Expires:

4/9/2006



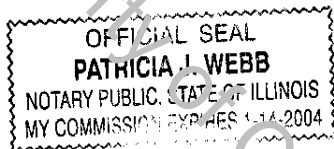


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STATE OF ILLINOIS        )  
   ) SS  
 COUNTY OF COOK         )

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that MARGARET E. CHUNG, Assistant Vice President of **PRAIRIE BANK AND TRUST COMPANY**, an Illinois banking association, personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day and acknowledged that she signed and delivered the foregoing instrument as her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7 day of May, 2003.



*Patricia J. Webb*  
 \_\_\_\_\_  
 NOTARY PUBLIC

My Commission Expires:

1-14-2004

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## EXHIBIT A

### LEGAL DESCRIPTION

LOT 3 IN SANTA FE HODGKINS-WILLOW SPRINGS INDUSTRIAL DISTRICT, UNIT 4, A SUBDIVISION IN THE WEST ½ OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 7550 Santa Fe Drive  
Hodgkins, Illinois

Permanent Index No.: 18-28-300-043-0000

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