

**TOLLING AGREEMENT**

**BETWEEN NEW YORK SMSA LIMITED PARTNERSHIP D/B/A VERIZON  
WIRELESS, T-MOBILE NORTHEAST LLC, NEW CINGULAR WIRELESS PCS, LLC  
AND TOWNSHIP OF CRANFORD ZONING BOARD OF ADJUSTMENT**

**Whereas,** New York SMSA Limited Partnership d/b/a Verizon Wireless, T-Mobile Northeast LLC and New Cingular Wireless PCS, LLC (the "Applicants") on May 21, 2019, filed an application under Application Number: ZBA 19-010 (the "Application") seeking certain variances and preliminary and final site plan approval to construct a wireless communications facility on the grounds of Union County College (the "Subject Property") that is pending before the Township of Cranford, Zoning Board of Adjustment (the "Board"); and

**Whereas,** on June 12, 2019, the Township of Cranford Zoning Officer (the "Zoning Officer") issued a Certificate of Completeness deeming the Application complete; and

**Whereas,** the Application, which was scheduled for public hearing on July 8, 2019, was adjourned upon request from the Applicants to address objections from residents, which were related to certain details on the Applicants' plans regarding variance relief required being incorrect, as well as, an asserted lack of sufficient time to review recent submissions by the Applicants and prepare for the scheduled hearing due to the observance of the Independence Day Holiday that caused municipal offices to be closed; and

**Whereas,** the Board scheduled a special meeting to consider the Application for August 19, 2019; and

**Whereas,** on August 19, 2019, the Applicant, upon being advised by the Applicants' project architect that one of the lots that comprised the Subject Property was misidentified on the Applicants' filed site plans, agreed to delay the hearing to allow for the site plans to be corrected without an agreed upon announced adjournment date for the next hearing; and

**Whereas,** revised site plans were submitted to the Board on September 17, 2019, with revised applications forms that correctly identified the Subject Property; and

**Whereas,** the Applicant noticed for public hearing to be conducted on October 7, 2019; and

**Whereas,** on October 4, 2019, the Zoning Officer advised the Applicants that the revised Application was deemed incomplete; and

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**Whereas**, Applicants objected to the decision to deem the Application incomplete asserting that decision lacked an appropriate legal or factual basis; and

**Whereas**, with reservation of rights, the Applicants submitted revised application forms to the Board on October 9, 2019; and

**Whereas**, the Board notified the Applicants that the Application is now scheduled for a public hearing on November 25, 2019; and

**Whereas**, the Applicants and the Board acknowledge that Application is governed, in part, by the Telecommunications Act of 1996, Pub. Law No. 104-104, 110 Stat. 56 (1996), codified in various sections of 47 U.S.C. §151 et seq. (the "Act") and specifically the timelines established under 47 U.S.C. § 332(c)(7)(B)(ii) and the FCC's Declaratory Ruling, 24 FCC Rcd., 13994, 14001 that establish a presumptive 150-day deadline for municipal decisions on siting/permit applications involving the construction of a new wireless communication tower; and

**Whereas**, the parties acknowledge that the facts of this case raise certain issues related to the presumptive 150-day deadline for municipal decisions for action on the Application; and

**Whereas**, without either party waiving rights, claims, defenses or arguments they may legally have or be able to advance, the Applicants and the Board agree to move forward pursuant to the terms of this tolling agreement to avoid the filing of litigation as might otherwise be required by federal and state statutes of limitations in connection with the presumptive 150-day deadline for municipal decisions on siting/permit applications involving the construction of a new wireless communication tower; and

**Whereas**, the parties acknowledge that the facts of this case raise certain issues related to the presumptive 150-day deadline for municipal decisions for action on the Application and each of the parties under the circumstances are desirous of resolving any controversy regarding the Applicants' presumptive rights to receive a decision from a local municipal land use board within 150-days;

**IT IS NOW, THEREFORE, AGREED AS FOLLOWS:**

1. The Applicants and Board agree that the time for Board action with respect to the Application shall be tolled until March 9<sup>th</sup>, 2020, upon the following hearing schedule:

- (i) November 25, 2019;
- (ii) December 9<sup>th</sup>, 2019;
- (iii) December 16<sup>th</sup>, 2019;

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- (iv) January 6<sup>th</sup>, 2020;
- (v) January 13<sup>th</sup>, 2020;
- (vi) January 27<sup>th</sup>, 2020;
- (vii) February 3, 2020;
- (viii) February 10<sup>th</sup>, 2020; and
- (ix) February 24<sup>th</sup>, 2020.

The Board agrees to take action on, the Application and render a decision on or before February 24<sup>th</sup>, 2020.

2. The Board shall be permitted to consider and adopt a resolution memorializing the Board's decision on or before March 9<sup>th</sup>, 2020.

3. Nevertheless, it shall be deemed a violation of the presumptive 150-day deadline and violation of Applicants' rights for a municipal decision on the Application, if the Board does not act upon the Application and render a decision on or before February 24<sup>th</sup>, 2020 and adopt a resolution memorializing the Board's decision on or before March 9, 2020; and in such case, the Applicants shall be permitted to enforce their rights for a resolution approving the Application, which may allow the Applicants, thereafter, to proceed with the filing of construction permits for the facility in conformity with the Applicants' site plans.

4. Notwithstanding anything to the contrary hereinabove, the parties acknowledge that the hearing dates set forth above include hearing dates for calendar Year 2020 and are subject to Board approval and availability of council chambers, which may not be confirmed until after this tolling agreement is executed. Accordingly, the parties will confer and agree upon alternate hearing dates, if needed, in the event that a prospective hearing date must be changed because of a lack of availability of council chambers.

5. The parties remain free to amend this tolling agreement, but the amendments must be in writing and signed by all parties. The parties will use their best efforts to resolve scheduling conflicts.

6. This Agreement shall not alter any right not specifically set forth herein and the parties' accent to the terms of this Agreement shall not be deemed to be a waiver of any right, or claim, or defense a party may legally have or otherwise be permitted to advance.

END OF DOCUMENT. SIGNATURE PAGE TO FOLLOW.

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NEW YORK SMSA LIMITED PARTNERSHIP  
BOARD D/B/A VERIZON WIRELESS

TOWNSHIP OF CRANFORD ZONING  
OF ADJUSTMENT

By: Signature on file

By: Signature on file

Ron Marotta, Chairman

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

T-MOBILE NORTHEAST LLC

NEW CINGULAR WIRELESS PCS, LLC

By: Signature on file

By: Signature on file

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

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