

**MEMORANDUM OF AGREEMENT  
AMONG  
THE FEDERAL COMMUNICATIONS COMMISSION (FCC),  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER (SHPO), AND  
NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T (AT&T) REGARDING  
THE PROPOSED DT ATOKA TELECOMMUNICATIONS TOWER  
IN ATOKA, ATOKA COUNTY, OKLAHOMA  
TCNS # 192226**

**WHEREAS**, AT&T proposes to construct a 185-foot monopole tower (195 feet overall height with appurtenances) (the project) along 13<sup>th</sup> Street, Atoka, Atoka County, Oklahoma (Latitude: 36°-22'-37.050"N, Longitude 96°-07'-30.217"W) to support communications facilities for FCC-licensed services provided by AT&T, the First Responder Network Authority (FirstNet), and other FCC licensees; and

**WHEREAS**, AT&T is a licensee of the FCC and intends to use antennas on the tower in connection with the provision of its licensed service; and

**WHEREAS**, the proposed tower requires antenna structure registration with the FCC pursuant to 47 CFR 17.4(a); and

**WHEREAS**, the FCC has determined that the project is a federal undertaking subject to review under the National Historic Preservation Act (NHPA), as amended by Pub. L. No. 96-515 (54 U.S.C. § 306108); and

**WHEREAS**, AT&T, pursuant to delegation from the FCC, initiated review for the project pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the NHPA (54 U.S.C. § 306108), as required by the FCC rules at 47 CFR §§ 1.1307(a)(4), 1.1320; and

**WHEREAS**, AT&T has consulted with the SHPO pursuant to 36 CFR Part 800, as well as pursuant to the *Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission* (NPA), 47 CFR Part 1, App. C, and is a signatory to this Memorandum of Agreement (MOA); and

**WHEREAS**, the FCC, in consultation with the SHPO, established the Area of Potential Effects (APE), consistent with Stipulation VI of the NPA, to include the area of potential ground disturbance and any property that will be physically altered or destroyed by the project, as well as the geographic area in which the project introduces new visual elements; and

**WHEREAS**, the FCC and the Oklahoma SHPO have determined that the proposed project may have an adverse effect on the Dunbar School, the First Presbyterian Church, the Joe Ralls House, and the Old Atoka State Bank, all of which are individually listed in the National Register of Historic Places (NRHP); and

**WHEREAS**, AT&T, consistent with the FCC's requirements for environmental review, has considered and evaluated a number of alternatives for the project and concluded that these options are either unavailable to AT&T or do not meet the technical requirements necessary to satisfy the coverage needs of the telecommunications systems to be supported by the antennas; and

**WHEREAS**, members of the public were afforded a 30-day period to participate in and comment on this proceeding pursuant to a notice published in the *Atoka County Times* on November 13, 2019, and no objections pertaining to effects on historic properties were received; and

**WHEREAS**, local government officials were notified and afforded an opportunity to participate in and provide comments on this proceeding pursuant to Section V. of the NPA; and

**WHEREAS** AT&T has made a reasonable and good faith effort to identify and notify Federally-recognized Tribal Nations that might attach religious and cultural significance to historic properties within the APE, including Apache Tribe of Oklahoma, Caddo Nation of Oklahoma, Cherokee Nation, Cheyenne-Arapaho Tribes of Oklahoma, Choctaw Nation of Oklahoma, Kiowa Indian Tribe, Northern Arapaho, Northern Cheyenne Tribe, Osage Nation, Quapaw Tribe of Oklahoma, Santee Sioux Nation, Seminole Nation of Oklahoma, Spirit Lake Nation, Wichita and Affiliated Tribes, Wyandotte Nation, and none of the notified Tribal Nations have objected to this project; and

**WHEREAS**, in accordance with Stipulation VII.D.2 of the NPA, AT&T has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with the specified and required documentation and the ACHP has declined to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

**NOW, THEREFORE**, the FCC, the SHPO, and AT&T agree that the project shall be implemented in accordance with the following stipulations in order to take into account the effects of the project on historic properties; and agree that the following measures shall constitute full, complete and adequate mitigation under the NHPA, as amended, the implementing regulations of the ACHP, and the FCC's rules.

## **STIPULATIONS**

The FCC, through coordination with AT&T and its assignees, including (Ramaker & Associates, Inc.), will ensure that the following measures are carried out following execution of this MOA:

### **I. MITIGATION OF ADVERSE EFFECT**

Measures involving historical or archeological expertise shall be completed by a professional meeting the applicable Secretary of the Interior's Professional Qualifications Standards.

#### A. Historical Records Update

AT&T shall prepare and/or update Historic Preservation Resource Identification (HPRI) forms and include photographs for the following four (4) NRHP listed structures located in Atoka, Atoka County, Oklahoma.

1. Dunbar School (NRHP #16000369): Northwest Corner of State Highway 3 & Dunbar Street (including all buildings on the property).
2. First Presbyterian Church (NRHP #7000914): 212 East 1<sup>st</sup> Street.
3. Joe Ralls House (NRHP # 80003254): 303 South Pennsylvania Avenue.
4. Old Atoka Bank (NRHP # 80003252): Corner of N Ohio Avenue & E Court Street.

#### B. HPRI Review and Submittal

1. AT&T shall prepare, edit, catalogue and package all documentation in accordance with the *Oklahoma Architectural/Historic Resource Survey: A Field Guide* (See Appendix).
2. The SHPO will have one review period consisting of 30-calendar days to review and comment on the draft HPRI forms and photographs upon submittal. If the SHPO does not respond within the 30-day review period, AT&T may assume SHPO concurrence.
3. After the 30-day review period (or upon receipt of SHPO comments), AT&T will address all comments and prepare final HPRI forms including photographs. AT&T will provide the SHPO with one (1) hard copy and one (1) digital copy of the final HPRI forms including photographs.

## II. REPORTING

Following the execution of this MOA and until it expires or is terminated, AT&T shall provide all parties to this MOA an annual summary report and a final report when the tower proponent completes the mitigation, detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and/or objections received in carrying out the terms of this MOA.

## III. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FCC shall consult with such party to resolve the objection. If the FCC determines that such objection cannot be resolved, the FCC will:

A. Forward all documentation relevant to the dispute, including the FCC's proposed resolution, to the ACHP. The ACHP's policy is to provide the FCC with its advice on the resolution of any objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FCC shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FCC will then proceed

according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time-period, the FCC may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FCC shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.

C. The FCC's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

#### **IV. REMOVAL**

In the event that AT&T abandons the facilities at this site, AT&T will remove all of its antennas and equipment and restore the project area to the same condition as existed prior to commencement of the project.

#### **V. DURATION**

This MOA will be null and void if the Stipulations are not carried out within a period of three years from the date of its execution. Prior to the termination or expiration of the MOA, the FCC may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

#### **VI. POST-REVIEW DISCOVERIES**

In the event that AT&T discovers a previously unidentified site within the APE that may be a Historic Property that would be affected by the project, AT&T shall promptly stop work and notify the FCC, the SHPO and any potentially affected Indian tribe.

If AT&T and SHPO concur that the discovered resource is eligible for listing in the NRHP, AT&T will consult with the SHPO, and Indian tribes as appropriate, to evaluate measures that will avoid, minimize, or mitigate adverse effects. Upon agreement regarding such measures, the AT&T shall implement them and notify the FCC of its action.

If AT&T and SHPO cannot reach agreement regarding the eligibility of a post-review discovery, the matter will be referred to the FCC for review. If AT&T and the SHPO cannot reach agreement on measures to avoid, minimize, or mitigate adverse effects, the matter shall be referred to the FCC for appropriate action.

If AT&T discovers any human or burial remains during implementation of the project, AT&T shall cease work immediately, notify the SHPO and FCC, and adhere to applicable State and Federal laws regarding the treatment of human or burial remains.

## **VII. AMENDMENTS**

This MOA may be amended prior to its expiration or termination when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## **VIII. TERMINATION**

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the project, the FCC must either (a) execute an MOA pursuant to 36 CFR Section 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR Section 800.7. The FCC shall notify the signatories as to the course of action it will pursue.

Execution of this MOA and implementation of its terms evidence that the FCC has taken into account the effects of this project on historic properties and afforded the ACHP an opportunity to comment.

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TCNS # 192226**

SIGNATORY:

**Federal Communications Commission**

*Paul D'Ari*

July 28, 2020

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Paul D'Ari, Date  
Senior Legal Counsel, Competition and Infrastructure Policy Division  
Wireless Telecommunications Bureau

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SIGNATORY:

**State Historic Preservation Office**



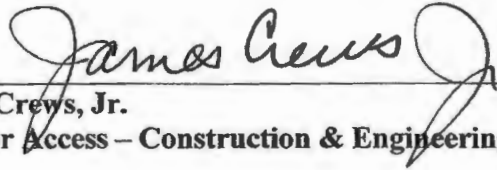
*July 14, 2020*  
Date

Dr. Bob Blackburn  
State Historic Preservation Officer  
Oklahoma State Historic Preservation Office

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SIGNATORY:

**New Cingular Wireless PCS, LLC**



**James Crews, Jr.  
Director Access – Construction & Engineering**

7-11-20

Date