

1                   **BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO**

2   A RESOLUTION OF THE SAN BENITO COUNTY BOARD       )   Resolution No. 2019-\_\_\_\_\_  
3   OF SUPERVISORS APPROVING A COMPATIBLE USE       )  
4   REQUEST ON AN AGRICULTURAL PRESERVE UNDER       )  
5   CONTRACT NUMBER 70-828 FOR A                        )  
6   TELECOMMUNICATION FACILITY (CALLAN-KREIGER       )  
7   FAMILY TRUST)   )

8   **WHEREAS**, Counties are authorized to establish agricultural preserves and to establish local  
9   procedures for creating, altering and terminating agricultural preserves, under the California Land  
10   Conservation Act (Cal. Government Code section 51200 et seq.); and

11   **WHEREAS**, the Board of Supervisors of the County of San Benito adopted an ordinance  
12   implementing the California Land Conservation Act in the County of San Benito, now codified in the  
13   San Benito County Code, title 19, chapter 19.01, article II, commencing with section 19.01.020; and

14   **WHEREAS**, certain compatible uses may be allowed on agricultural preserves, if Counties make  
15   findings set forth in Government Code section 51238.1 and San Benito County Code section  
16   19.01.023(F)(1); and

17   **WHEREAS**, County Code section 19.01.023 specifies categories of compatible uses allowed on  
18   agricultural preserves and required findings associated with compatible use requests, consistent with  
19   the requirements of Government Code sections 51238.1; and

20   **WHEREAS**, County Code section 19.01.023(B)(5) provides that communication facilities are  
21   compatible uses; and

22   **WHEREAS**, County Code section 19.01.023(C) prohibits the placement of structures on agricultural  
23   preserves, except for those structures related directly to an agricultural or compatible use; and

24   **WHEREAS**, Government Code section 51238.1(a) and County Code section 19.01.023(F) require  
25   that compatible uses be consistent with the following principles of compatibility:

- 26       1.    The use will not significantly compromise the long-term productive agricultural capability  
27       of the subject agricultural preserve or on other surrounding agricultural preserves;
- 28       2.    The use will not significantly displace or impair current or reasonably foreseeable  
agricultural operations on the subject agricultural preserve or on other surrounding  
agricultural preserves[,] [although] [u]ses that significantly displace agricultural  
operations on a portion of the subject agricultural preserve may be deemed compatible if  
they relate directly to the production of commercial agricultural products on the  
remaining portion of the agricultural preserve or on neighboring lands, including  
activities such as harvesting, processing or shipping; and
3.    The use will not result in the significant removal of adjacent agricultural preserves from  
agricultural or open-space use; and

**WHEREAS**, the owners of two Assessor's Parcels (APN's 028-150-024 and 028-130-026)  
comprising 323+ acres of land under agricultural preserve, Contract Number 70-828, together with

1 New Cingular Wireless PCS, LLC, dba AT&T Wireless c/o Epic Wireless Group, requested a  
2 compatible use determination to allow the installation of a telecommunication facility within a 0.02  
acre (approximately 900-1200 square feet) area; and

3 **WHEREAS**, the Agricultural Preserve Advisory Committee considered the compatible use request,  
4 found it to meet the criteria of San Benito County Code section 19.01.023(B)(5), (C) and (F), and  
5 Government Code section 51238.1, and recommends that the Board of Supervisors approve the  
compatible use request; and

6 **WHEREAS**, the Board of Supervisors held a duly noticed public hearing to consider the  
7 compatible use request; and

8 **WHEREAS**, at the public hearing, the Board of Supervisors heard and received all oral and written  
9 testimony and evidence that was made, presented, or filed, and all persons present at the hearing  
10 were given ample opportunity to hear and be heard with respect to any matter related to the  
compatible use request; and

11 **WHEREAS**, at the conclusion of public testimony, the Board closed the public hearing, deliberated  
12 and considered the merits of the compatible use request.

13 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of San  
14 Benito that it hereby finds that the proposed installation of a telecommunication facility on  
approximately 0.02 acres of land, out of the 323+ acre agricultural preserve, under Contract Number  
15 70-828, significantly less than one percent (1%) of the total acreage, is a compatible use under  
Government Code section 51238.1, and the County's implementing ordinance, San Benito County  
16 Code section 19.01.023(B)(5), because the proposed use is a communication facility as authorized  
in section 19.01.023(B)(5), and it will be incidental and not detrimental to the agricultural uses of  
17 the land within the agricultural preserve; and

18 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it  
19 hereby finds that the structures associated with the installation of a telecommunication facility on  
approximately 0.02 acres of land are directly related to a compatible use of the land under County  
20 Code section 19.01.023(C); and

21 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it  
22 hereby finds that the installation of a telecommunication facility on approximately 0.02 acres of  
land out of the 323+ acre agricultural preserve, under Contract Number 70-828, significantly less  
23 than one percent (1%) of the total acreage, satisfies the following criteria of compatibility set forth  
in Government Code section 51238.1(a) and San Benito County Code section 19.01.023(F):

- 24  
25 1. The installation of a telecommunication facility on approximately 0.02 acres of land out  
26 of the 323+ acre agricultural preserve, significantly less than one percent (1%) of the  
27 total acreage, will not significantly compromise the long-term productive agricultural  
capability of the subject agricultural preserve or on other surrounding agricultural  
preserves;
- 28 2. The installation of a telecommunication facility on approximately 0.02 acres of land out  
of the 323+ acre agricultural preserve, significantly less than one percent (1%) of the  
total acreage, will not significantly displace or impair current or reasonably foreseeable

1 agricultural operations on the subject agricultural preserve or on other surrounding  
2 agricultural preserves; and  
3 3. The installation of a telecommunication facility on approximately 0.02 acres of land out  
4 of the 323+ acre agricultural preserve, significantly less than one percent (1%) of the  
total acreage, will not result in the removal of adjacent agricultural preserves from  
agricultural or open-space use.

5 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it  
6 hereby approves the requested compatible use of land in an agricultural preserve, under Contract  
7 Number 70-828, based on its findings and determinations, and supported by substantial evidence in  
the record, and the Agricultural Preserve Advisory Committee's recommendation.

8 **PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN**  
9 **BENITO THIS 10TH DAY OF SEPTEMBER, 2019 BY THE FOLLOWING VOTE:**

10 Ayes: Supervisor(s):  
11 Noes: Supervisor(s):  
12 Absent: Supervisor(s):  
Abstain: Supervisor(s)

13 By: \_\_\_\_\_  
14 Mark Medina, Chair

15 **ATTEST:**  
16 Janet Slibsager, Clerk of the Board

17 By: \_\_\_\_\_  
18 Date: \_\_\_\_\_

**APPROVED AS TO LEGAL FORM:**  
San Benito County Counsel's Office

19 By: Shirley L. Murphy  
20 Shirley L. Murphy, Deputy County Counsel  
21 Date: Aug. 16, 2019  
22  
23  
24  
25  
26  
27  
28