



LEASE AGREEMENT

between

THE CITY OF SAN DIEGO

and

SAN DIEGO GAS & ELECTRIC COMPANY

at

Mt. Woodson

LEASE OUTLINE

SECTION 1:	PREMISES	1
1.1	Leased Premises	1
1.2	Easements and Reservations	1
1.3	Eminent Domain	2
1.4	Related Council Actions	3
1.5	Quiet Possession	3
1.6	Reassignment of Space	3
1.7	Access Road	4
1.8	Access Road Maintenance Addendum	4
SECTION 2:	TERM	4
2.1	Term	4
2.2	Holdover	5
2.3	Quitclaim and Surrender of LESSEE'S Interest	5
SECTION 3:	USES	5
3.1	Sole Permitted Uses	5
3.2	Co-location	5
3.3	Competent Management	6
SECTION 4:	RENT	6
4.1	Time and Place of Payment	6
4.2	Rent	6
4.3	Delinquent Rent	7
4.4	Market Rate Adjustment by Appraisal	7
SECTION 5:	ASSIGNMENT	7
5.1	Assignment and Subletting	7
5.2	Encumbrance	8
SECTION 6:	DEFAULTS AND REMEDIES	9
6.1	Defaults	9
6.2	Remedies	10
6.3	CITY'S Recovery	10
6.4	Default if the Leasehold Interest is Encumbered	11
6.5	Abandonment by LESSEE	12
6.6	Waiver	12
SECTION 7:	INDEMNIFICATION	12
7.1	LESSEE'S Indemnification Obligation	12
7.2	CITY'S Indemnification Obligation	13
SECTION 8:	INSURANCE	13

8.1	Additional Insureds	13
8.2	Primary and Non-Contributory	14
8.3	Qualified Insurer(s)	14
8.4	Deductibles/Retentions	14
8.5	Continuity of Coverage	14
8.6	Modification	14
8.7	Accident Reports	14
8.8	Causes of Loss – Special Form Property Insurance	14
8.9	Self Insurance	15
8.10	Waste, Damage, or Destruction	15
SECTION 9: IMPROVEMENTS/ALTERATIONS/REPAIRS		15
9.1	Acceptance of Premises	15
9.2	Entry and Inspection	15
9.3	Maintenance	16
9.4	Shared Maintenance	16
9.5	Improvements and Alterations	16
9.6	Utilities	17
9.7	Liens	17
9.8	Taxes	18
9.9	Signs	18
9.10	Ownership of Improvements and Personal Property	18
9.11	Unavoidable Delay	19
9.12	Site Plans/Locations	20
9.13	Hazardous Substances	20
9.14	Radio-Frequency Radiation	21
9.15	Radio-Frequency Interference	22
9.16	Industry Standards	22
9.17	Site Access and Security	22
9.18	CITY Water Tanks	23
SECTION 10: CITY POLICY IMPLEMENTATION PROVISIONS		23
10.1	CITY’S Consent, Discretion	23
10.2	Nondiscrimination	23
10.3	Compliance with CITY’S Equal Opportunity Contracting Program	23
10.4	Local Business and Employment	24
10.5	CITY Employee Participation Policy	24
10.6	Drug-Free Workplace Program	24
10.7	Disabled Access Compliance	25
10.8	Water Quality Assurances	25
SECTION 11: GENERAL PROVISIONS		26
11.1	Compliance with Law	26
11.2	Notices	26
11.3	Partial Invalidity	27
11.4	Legal Fees	27

11.5	Number and Gender	27
11.6	Captions	27
11.7	Entire Understanding	27
11.8	Lease Modifications	28
11.9	Time is of Essence; Provisions Binding on Successors	28
11.10	Survival	28
11.11	Standard of Conduct	28
11.12	Supersedure	28
11.13	Cost Recovery	28
11.14	Governing Law	29
11.15	Counterparts	29
11.16	Joint and Several Liability	29
11.17	Consents	29
11.18	San Diego's Strong Mayor Form of Governance	29
11.19	Authority	30
	EXHIBIT A: Legal Description	31
	EXHIBIT B: Site Plans/Location	32
	EXHIBIT C: Equipment	33
	EXHIBIT D: Interference Protection Requirements	34
	EXHIBIT E: Installation Standards	39

CITY OF SAN DIEGO

LEASE AGREEMENT

THIS CITY OF SAN DIEGO LEASE AGREEMENT ("Lease") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and SAN DIEGO GAS & ELECTRIC COMPANY, a California corporation ("LESSEE"), to be effective as of **October 1, 2009** (the "Commencement Date"), when signed by the parties and approved by the San Diego City Attorney, as follows:

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

SECTION 1: PREMISES

1.1 Leased Premises. CITY owns that certain real property (the "Site") described in Exhibit "A" – Legal Description, attached hereto. LESSEE leases from CITY that certain portion of the Site described in Exhibit "B" - Site Plan/Location, attached hereto, which portion shall be referred herein as the "Premises." LESSEE and its agents, employees, invitees, and contractors may enter the Premises using the access point shown on the attached Exhibit "B" – Site Plan/Location on a 24-hour nonexclusive basis. The Premises is part of a facility LESSEE shares with CITY, including the building, ice-bridge, tower, and driveway. LESSEE shall have the right to occupy CITY'S tower for placing antennae. CITY shall be the "Tower Manager" and LESSEE shall submit in writing for CITY'S approval a request for placement of additional antennae on the tower. Consent for such approval shall not be unreasonably withheld.

1.2 Easements and Reservations.

1.2.1 CITY reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.

1.2.2 CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable, in its sole discretion, for the public good.

1.2.3 CITY may enter the Premises to develop and/or repair municipal resources and services.

CITY shall not unreasonably or substantially interfere with LESSEE'S use of the Premises and shall reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises or Communications Equipment (defined below) resulting from CITY exercising the rights reserved in this section. The reimbursement may include a reduction in the rent proportionate to the amount of physical damage as

reasonably determined by CITY. CITY shall pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

- 1.3. Eminent Domain. If all or part of the Premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or beneficiary or mortgagee) shall be as follows:
 - 1.3.1. Full Taking. If the entire Premises is taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
 - 1.3.2. Partial Taking - Remainder Unusable. If a partial taking of the Premises occurs, and in the reasonable opinion of CITY, the remaining part of the Premises is unsuitable for the Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
 - 1.3.3. Partial Taking - Remainder Usable. If a partial taking of the Premises occurs, and in the reasonable opinion of CITY, the remaining part of the Premises is suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The rent shall be equitably reduced to reflect the portion of the Premises taken, only to the extent that LESSEE'S operations are reduced or impaired.
 - 1.3.4. Award. All monies awarded in any taking shall belong to CITY, whether the taking results in diminution in value of the leasehold or the fee or both. LESSEE shall be entitled to any award attributable to the taking of, or damages to, LESSEE'S then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.
 - 1.3.5. Transfer. CITY may transfer CITY'S interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.
 - 1.3.6. No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

- 1.4. Related Council Actions. By entering into this Lease, neither CITY nor the San Diego City Council is obligating itself or any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the development or operation of the Premises. Discretionary action includes, but is not limited to, re-zonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Premises. LESSEE shall diligently seek all entitlements and actions, from both CITY and other governmental agencies with jurisdiction over the Premises, as are necessary to develop and operate the uses contemplated by this Lease, all at no cost to CITY.
- 1.5. Quiet Possession. LESSEE, paying the rent and performing its obligations under this Lease, shall at all times during the term of this Lease peaceably and quietly have, hold, and enjoy the Premises. If CITY for any reason cannot deliver possession of the Premises to LESSEE on the Commencement Date, then this Lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or resulting damage; provided, however, the Commencement Date shall automatically extend until the date CITY delivers possession of the Premises to LESSEE.
- 1.6. Reassignment of Space. At any time during the term of this Lease, CITY, in its sole discretion, may reassign LESSEE an equivalent amount of space in a different location at the Site. CITY shall exercise its reassignment right by delivering written notice (the "Reassignment Notice") to LESSEE that proposes one or more alternate locations on the Site to which LESSEE may relocate its Communications Equipment. LESSEE shall have ninety (90) days from the date it receives the Reassignment Notice to evaluate CITY'S proposed relocation space, during which period LESSEE shall have the right to conduct tests to determine the technological feasibility of the proposed relocation space. Any relocation space which CITY and LESSEE agree upon in writing is referred to in this Lease as the "Relocation Space." LESSEE shall then have a period of ninety (90) days to relocate its Communications Equipment to the Relocation Space after the later to occur of: execution of a written agreement between the parties concerning the location and dimensions of the Relocation Space; or receipt by CITY of all necessary permits and approvals required for any CITY construction or redevelopment project which requires a relocation of the Communications Equipment (including all permits and approvals required for LESSEE'S use of the Relocation Space). LESSEE shall cooperate fully with CITY and its contractors during any reassignment, and shall pay all expenses associated with the first reassignment during any continuous three (3) year period (and CITY shall pay all expenses associated with a second and any subsequent reassignments during the same three-year period); provided, however, that the actual relocation of all or any part of LESSEE'S Communications Equipment shall only be done by LESSEE or LESSEE'S contractors. CITY shall use its best efforts to ensure continuous, uninterrupted broadcast/receiving capability during any conversion, including the installation and operation by LESSEE of a CITY-approved temporary communications facility on the Site. If CITY and LESSEE are unable to agree on a mutually acceptable Relocation Space, then LESSEE may terminate this Lease upon thirty (30) days prior written notice to CITY, without further obligation. Upon relocation of the Communications Equipment, or any part thereof, to the Relocation Space, all references to the Premises in this Lease

shall be deemed to be references to the Relocation Space. CITY and LESSEE agree that "as built" drawings of the Relocation Space (including the access and utility easement) may be prepared by a licensed architect at the sole cost of LESSEE and such drawings shall then replace the relevant portions of Exhibit "A" – Legal Description and Exhibit "B" – Site Plan/Location and by this reference made a part of this Lease. Except as expressly provided in this Section 1.6, the relocation of the Communications Equipment, or any part thereof, shall not alter, modify or otherwise change any of the terms and conditions of this Lease.

- 1.7. Access Road. CITY grants to LESSEE, its authorized agents, employees, contractors, sublessees and licensees, a non-exclusive right to use during the term of this Lease, that portion of the access road ("Access Road") described in Exhibit A – Site Legal Description which serves Mount Woodson, subject to the following conditions:

- 1.7.1. LESSEE, its authorized agents, employees, contractors, sublessees and licensees shall exercise the right to use the access road only when it is necessary to access the Premises.
- 1.7.2. LESSEE, its authorized agents, employees, contractors, sublessees and licensees shall use the access road at their sole risk and avoid using the road to the extent reasonably possible during weather conditions that may result in excessive damage to the road surface.
- 1.7.3. LESSEE shall, at LESSEE'S expense, promptly repair any abnormal or excessive road damage caused by LESSEE, its authorized agents, employees, contractors, sublessees and licensees, including road surface protective features such as water drains, berms and culverts.
- 1.7.4. LESSEE shall provide locks for any gates crossing the road. Gate locks shall be placed in a manner that will not disturb the locks of others.

- 1.8. Access Road Maintenance Addendum. At any time during the term of this Lease, CITY may deliver to LESSEE an addendum to this Lease ("Maintenance Addendum") requiring LESSEE to pay a proportionate share of the costs to renovate and maintain the Access Road. LESSEE may either: (a) execute and deliver the Maintenance Addendum to CITY within sixty (60) days after receiving the Maintenance Addendum; or (b) terminate this Lease upon ninety (90) days notice to CITY delivered within sixty (60) days after receiving the Maintenance Addendum.

SECTION 2: TERM

- 2.1 Term. The term of this Lease ("Term") shall be ten (10) years. "Lease Year" as used in this Lease shall mean the first full 12-month period following the Commencement Date, and each succeeding 12-month period thereafter during the Term.

- 2.2 Holdover. LESSEE may not continue in possession of any Premises past the expiration or earlier termination of this Lease. Any extension of the Term shall require approval by the City Council pursuant to City Council Policy 700-10: Disposition of City-Owned Real Property.
- 2.3 Quitclaim and Surrender of LESSEE'S Interest.
- 2.3.1 Quitclaim Deed. At termination of this Lease for any reason, LESSEE shall execute, acknowledge and deliver to CITY, within five (5) days after written demand, a valid and recordable quitclaim deed covering all of the Premises. If LESSEE fails or refuses to deliver the required quitclaim deed, CITY may prepare and record a notice reciting LESSEE'S failure to execute this Lease provision, and the notice shall be conclusive evidence of the termination of this Lease and all LESSEE'S rights to the Premises.
- 2.3.2 Surrender and Restoration of Premises. Upon the expiration or earlier termination of this Lease, LESSEE shall surrender the Premises to CITY free and clear of all liens and encumbrances, except those liens and encumbrances (i) which existed on the Commencement Date, and (ii) existing after the Commencement Date and not the result of LESSEE'S use of the Premises, and in a decent, safe, and sanitary condition.

SECTION 3: USES

- 3.1 Sole Permitted Uses. The Premises are leased to LESSEE solely and exclusively for the purposes of installing, constructing, modifying, maintaining, operating, and removing, at its expense, a communications facility on the Premises, including, without limitation, antenna equipment, cable wiring, utility lines, transmission lines, air conditioned equipment shelters, backup power sources that may include, with proper permits obtained, backup power generators with connected fuel storage tanks for emergency backup power, related fixtures and, if applicable to the Premises, an antenna structure or structures (collectively, "Communications Equipment"), as listed in the attached Exhibit "C" - Equipment. LESSEE may replace or repair the Communications Equipment, or any portion thereof, pursuant to the terms and conditions of this Lease. The use of the Premises for any unauthorized, illegal, or unpermitted purpose shall constitute a default of this Lease.
- 3.2 Co-location. Where a Site is a shared site, LESSEE shall not access any other wireless communication facility or CITY-owned communications equipment, including any towers, without CITY'S prior consent.

- 3.3 Competent Management. Throughout the Term, LESSEE shall provide competent management of the Premises for the permitted uses to the reasonable satisfaction of the City Manager. For purposes of this section, "competent management" shall mean demonstrated ability in the management and operation of a communications facility and related activities in a fiscally responsible manner and in accordance with industry standards.

SECTION 4: RENT

- 4.1 Time and Place of Payment. Rent is due annually in advance on or before the first day of each Lease Year. If the Commencement Date is not the first day of a calendar month, then the accrued rent for the partial month at the beginning of the Term shall be prorated on a per diem basis, and paid in conjunction with the rent for the first full month of the Term. All rents required by this Lease must be made payable to the City Treasurer and mailed to:

The Office of the City Treasurer
City of San Diego
P.O. Box 122289
San Diego, California 92112-4165

or hand delivered to:

The Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue
First Floor
San Diego, California

The place of payment may be changed at any time by CITY upon thirty (30) days prior written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail. LESSEE shall clearly identify the Premises by location and include CITY'S customer account number for LESSEE on the rent payment so CITY can apply the rent to the appropriate account.

- 4.2 Rent. LESSEE shall pay CITY an initial rent of Thirty Thousand Dollars (\$30,000) annually in advance, subject to annual adjustments on the first day of each Lease Year as provided in the following rent schedule:

Lease Year Two	\$31,200
Lease Year Three	\$32,448
Lease Year Four	\$33,745
Lease Year Five	\$35,095

Lease Year Six

Market Rate

The above rent schedule reflects an annual rent escalation equal to four percent (4%) of the annual rent for each preceding Lease Year. At Lease Year Six the rent is subject to the market rate adjustment by appraisal provisions described below.

- 4.3 Delinquent Rent. If LESSEE fails to pay rent when due, LESSEE shall pay, in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days past due, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (10%)], which is agreed by the parties to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. In no event shall the charge for late payments of rent be less than One Hundred Dollars (\$100). Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of LESSEE'S default with respect to late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity.
- 4.4 Market Rate Adjustment by Appraisal. At the end of the fifth Lease Year, the rent for the remaining five (5) Lease Years of the Term shall be determined by an appraisal, to be effective as of the first day of the sixth Lease Year (the "Adjustment Date"). Such appraisal shall be performed by a staff appraiser of CITY'S Real Estate Assets Department ("READ") or by a California State Certified General Real Estate Appraiser who is confirmed by READ as being competent in determining market rent for communications sites/properties/leases ("Qualified Appraiser") and shall be in conformance with Uniform Standards of Professional Appraisal Practice. In establishing the market rent for the Premises, the Qualified Appraiser shall base the valuation on an appraisal not more than six months old, as of the Adjustment Date, prepared by surveying comparable market rents for similar leased facilities in Southern California or other comparable market areas. If the appraisal is not completed prior to the Adjustment Date, LESSEE shall continue to pay rent in accordance with the then-existing Lease rates, and the adjustment, when determined, shall be retroactive to the Adjustment Date. Any deficiency shall be paid by LESSEE to CITY within thirty (30) days after determination of the new rental rate. In no event shall the adjusted rent be less than the rent in effect immediately prior to the Adjustment Date. CITY may determine that no market value adjustment is necessary and waive the requirement for an appraisal, in which case the percentage increases set forth in this Lease for the second through fifth Lease Years shall continue for the remainder of the Term.

SECTION 5: ASSIGNMENT

- 5.1 Assignment and Subletting. LESSEE shall not assign this Lease, in whole or in part, or any interest in this Lease, and shall not sublet the Premises, or any part of the Premises, or any right or appurtenant privilege to the Premises, or permit any other person, except employees, agents, and guests of LESSEE, to use or occupy the Premises or any part of the Premises, without CITY'S prior written consent in each instance, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, LESSEE may, without CITY'S prior written consent, but with notice to CITY, assign its interest in this

Lease to any entity that controls, is controlled by, or is under common control with LESSEE, or in connection with a merger between LESSEE and another entity, or a sale of all or substantially all of LESSEE'S assets.

5.1.1 Consent to an assignment, subletting, occupation, or use by any other person shall not be deemed to be consent to any subsequent assignment, subletting, occupation, or use by another person. Any assignment or subletting without CITY'S consent shall be void and shall be a default of this Lease, in whole or in part.

5.1.2 This Lease shall not, nor shall any interest in this Lease, be assignable as to the interest of LESSEE, by operation of law, without the CITY'S written consent. For the purpose of this section, "assignment" shall include without limitation the transfer of any interest in this Lease and, if LESSEE is other than a natural person, the transfer of a controlling interest in LESSEE or any of LESSEE'S general partners, principals, or controlling shareholders.

5.1.3 CITY'S approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations assigned or subleased and that the assignee or sublessee will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired.

5.1.4 As a condition to CITY'S approval of any sublease or other rental agreement or assignment under this Lease, LESSEE shall pay to CITY fifty percent (50%) of the gross revenues payable to LESSEE under any such sublease or other rental agreement, and CITY may further require that this Lease or the requested sublease otherwise be revised to comply with then-current CITY lease requirements. Pursuant to City Charter Section 225, incorporated herein, the City Manager must review and approve every person or entity which will have any direct or indirect interest in this Lease as a sublessee or assignee, which approval may not be unreasonably withheld.

5.2 Encumbrance. Only with CITY'S prior written consent in each instance and upon the condition that LESSEE apply the loan proceeds exclusively to its installation of wireless communication facilities on the Premises, LESSEE may pledge its leasehold estate hereunder to secure its performance under the subject debt instrument, provided, however, that City hereby consents to the lien and encumbrance on LESSEE'S interest in this Lease to the extent applicable pursuant to the Trust Indenture, dated as of July 1, 1940, between LESSEE and the Bank of California National Association, a corporation, recorded on October 10, 1940 in Book 1087, Page 1 in the Office of the San Diego County Recorder, as the same has been subsequently amended or supplemented ("Lessee's Existing Trust Indenture").

5.2.1 A reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction of LESSEE'S wireless communication facilities,

including but not limited to the following: off-site improvements for service of the Premises; on-site improvements; escrow charges; premiums for hazard insurance or other insurance or bonds required by CITY; title insurance premiums; reasonable loan costs such as discounts, interest, and commissions; and architectural, engineering, and attorney fees and other normal expenses incidental to such construction.

- 5.2.2 After the Premises are fully developed as contemplated by this Lease and to CITY'S satisfaction, if LESSEE proposes a subsequent encumbrance on its leasehold estate hereunder, then CITY'S consent thereto may be subject, in CITY'S sole discretion and without limitation, to increasing the rent to then-current market rates. LESSEE may use the proceeds from any such subsequent encumbrance for any purpose approved by CITY.
- 5.2.3 Upon a foreclosure or transfer in lieu of foreclosure of a CITY-approved encumbrance, CITY shall accept the approved mortgagee or beneficiary as the "LESSEE" under this Lease, with all rights and obligations thereof granted and imposed herein. Such mortgagee or beneficiary may assign its interest in this Lease to its nominee if CITY deems, in its sole discretion, such nominee to be a reputable, qualified, and financially responsible person.
- 5.2.4 Other than Lessee's Existing Trust Indenture, any CITY-approved encumbrance shall be subject and subordinate to all of the terms, covenants, and conditions of this Lease, and shall not be deemed to amend or alter any such term, covenant, or condition. LESSEE acknowledges that pursuant to City Charter Section 225, each person having an interest in this Lease shall be subject to CITY'S review and approval, which may not be unreasonably withheld, provided such person is of good character and reputation in the community.

SECTION 6: DEFAULTS AND REMEDIES

- 6.1 Defaults. Each of the following shall constitute an event of default under this Lease:
 - 6.1.1 LESSEE'S failure to make any payment required under this Lease when due if the failure continues for five (5) days following written notice of the failure by CITY;
 - 6.1.2 LESSEE'S breach of any of its obligations under this Lease, other than those requiring payment to CITY, and LESSEE either: (i) fails to cure the breach within thirty (30) days following written notice from CITY; or, (ii) if such breach is not curable within thirty (30) days, fails to commence to cure the breach within thirty (30) days and diligently pursue the cure to completion;
 - 6.1.3 LESSEE voluntarily files any petition under any bankruptcy or insolvency act or law;

- 6.1.4 LESSEE has involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the matter is not dismissed by a court of competent jurisdiction within ninety calendar days of filing;
 - 6.1.5 LESSEE is adjudicated a bankrupt;
 - 6.1.6 LESSEE makes a general assignment for the benefit of creditors; and
 - 6.1.7 LESSEE uses the Premises for any unauthorized purpose.
- 6.2 Remedies. Upon LESSEE'S default under this Lease, CITY may pursue any one or more of the remedies listed in this section in addition to any other remedies now or later available to CITY, in law or equity. Such remedies shall be cumulative and not exclusive.
- 6.2.1 For Default Based Upon Nonpayment. Upon LESSEE'S default for nonpayment under this Lease, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written Five-Day Notice to Pay or Quit or CITY may terminate this Lease, in whole or in part, and all rights of LESSEE and of all persons claiming rights through LESSEE to the Premises or to possession of the Premises, and CITY may enter and take possession of the Premises and may recover the amount set forth below.
 - 6.2.2 For Any Other Default. Upon LESSEE'S default other than for nonpayment under this Lease, CITY may, at its option, terminate this Lease, in whole or in part, and all applicable rights of LESSEE and of all persons claiming rights through LESSEE to the applicable Premises or possession of the applicable Premises, and CITY may enter and take possession of the applicable Premises and may recover from LESSEE the amount set forth below. If any default other than for nonpayment is not curable within thirty (30) days after notice to LESSEE, CITY will not terminate this Lease pursuant to the default, if LESSEE immediately commences to cure the default and diligently pursues the cure to completion.
- 6.3 CITY'S Recovery. Upon termination of the Lease due to LESSEE'S default, CITY may recover the sum of:
- 6.3.1 The worth at the time of award of any unpaid rent that had been due at the time of termination; plus
 - 6.3.2 The worth at the time of award of the amount by which (i) the unpaid rent that would have been earned after termination until the time of award minus (ii) the amount of the rent lost, if any, that LESSEE affirmatively proved could have been reasonably avoided; plus

- 6.3.3 The worth at the time of award of the amount by which (i) the unpaid rent for the balance of the Term after the time of the award minus (ii) the amount of rent lost, if any, as LESSEE affirmatively proves could be reasonably avoided; plus
- 6.3.4 Any other amount necessary to compensate CITY for the detriment proximately caused by LESSEE'S failure to perform LESSEE'S obligations or that, in the ordinary course of things, would be likely to result; plus
- 6.3.5 All other amounts in addition to or in lieu of those previously stated as may be permitted by California law.
- 6.3.6 As used in Sections 6.3.1 and 6.3.2, above, the "worth at time of award" shall be computed by allowing interest at the rate of ten percent (10%) per annum. As used in Section 6.3.3, above, the "worth at the time of award" shall be computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this section, the terms "rent" shall include base rent, percentage rent and any and all other amounts that LESSEE is required to pay to CITY under this Lease.
- 6.4 Default if the Leasehold Interest is Encumbered. If LESSEE is in default under this Lease and the leasehold is pledged as security for a CITY-authorized encumbrance, CITY shall notify the mortgagee or beneficiary thereof of LESSEE'S default. CITY shall allow such mortgagee or beneficiary thirty (30) days to cure the default or, if the default is not curable within thirty (30) days, to commence to cure the default and diligently pursue the cure to completion. CITY may, in its sole discretion, extend such time to cure the default if CITY deems that the mortgagee or beneficiary is pursuing the cure with reasonable diligence.
 - 6.4.1 If the mortgagee or beneficiary is required to exercise its right to cure a default through litigation or foreclosure, then CITY may take the following actions to expeditiously cure the default:
 - 6.4.1.1 CITY may correct the default and charge the costs incurred to LESSEE'S account, which charge shall be due and payable on the date that the rent is next due after CITY'S statement of such costs is delivered to LESSEE and mortgagee or beneficiary;
 - 6.4.1.2 CITY may correct the default and may recover the costs incurred from the proceeds of any insurance fund held by CITY, CITY and LESSEE, or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default or to pay the cost of correction performed by or at the direction of CITY; or
 - 6.4.1.3 CITY may terminate this Lease, in whole or in part, as to the rights of LESSEE by assuming or causing the assumption of liability for any

CITY-authorized encumbrance on the leasehold. LESSEE shall assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition of CITY'S early payoff of the related obligations. CITY may, as an alternative, substitute for the terminated LESSEE a new tenant reasonably satisfactory to the mortgagee or beneficiary. Any reasonable costs incurred by CITY in entering into a new lease with the same terms and conditions as this Lease with the new tenant shall be the responsibility of the terminated LESSEE, and LESSEE shall reimburse CITY for all such reasonable costs.

- 6.4.2 If the default is not curable by LESSEE, then any lender holding a beneficial interest in the leasehold, whose qualifications as an assignee are approved by CITY, may substitute itself in the place of LESSEE by assuming all of LESSEE'S rights and obligations under this Lease. If such a lender notifies CITY of its intention to substitute itself in LESSEE'S place in writing within thirty (30) days after receipt of CITY'S notice of default, and the default is cured by the lender, then this Lease will not terminate pursuant to the default. Subject to such a cure and LESSEE'S assignment to the lender of LESSEE'S rights and obligations under this Lease, CITY shall consent to the assignment.
- 6.5 Abandonment by LESSEE. If LESSEE breaches this Lease and abandons the Premises, this Lease shall continue in effect as long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies under this Lease, including but not limited to the right to recover the rent as it becomes due, plus damages.
- 6.6 Waiver. CITY'S waiver of a default shall not be a waiver of any other default. Any waiver of a default shall be in a writing executed by CITY in order to constitute a valid and binding waiver. CITY'S delay or failure to exercise its rights shall not be a waiver of that or any other right under this Lease. The use of one remedy for a default shall not waive the use of any other remedy for the same or any other default. CITY'S acceptance of any rent shall not be a waiver of any default preceding the rent payment. The property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego. CITY'S failure to discover a breach or default or take prompt action to require the cure of any breach or default shall not result in an equitable estoppel; CITY may at all times require the cure of any default regardless of when it is discovered.

SECTION 7: INDEMNIFICATION

- 7.1 LESSEE'S Indemnification Obligation. LESSEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation injury to LESSEE'S officers, agents, employees, invitees, or contractors, which arise out of or are in any manner directly or indirectly connected with this Lease or LESSEE'S development, occupancy, or use of the Premises, and all costs and expenses of investigating and

defending against same, including without limitation reasonable attorney fees and costs; provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active or sole negligence or sole willful misconduct of CITY or its elected officials, officers, representatives, agents, or employees.

- 7.2 CITY'S Indemnification Obligation. CITY shall protect, defend, indemnify, and hold LESSEE and its officers, agents, employees, invitees, and contractors harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation injury to CITY'S elected officials, officers, representatives, agents, or employees which arise out of or are in any manner directly or indirectly connected with CITY'S development, use, or maintenance of the Site, and all costs and expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that CITY'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active or sole negligence or sole willful misconduct of LESSEE or its officers, agents, employees, invitees, or contractors.

SECTION 8: INSURANCE

LESSEE shall deliver to CITY'S Real Estate Assets Department a current certificate of insurance for:

- 1) Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000); such limit may be satisfied by a combination of primary and umbrella policies. LESSEE may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance LESSEE may maintain; and
 - 2) Automobile Liability Insurance, providing coverage for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Lease. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and
 - 3) Workers' Compensation Insurance, as required by the laws of the State of California for all of LESSEE'S employees who are subject to this Lease, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000).
- 8.1 Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.

- 8.2 Primary and Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY for claims arising from the negligence or willful misconduct of LESSEE.
- 8.3 Qualified Insurer(s). All insurance required by the terms of this Lease must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.
- 8.4 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy shall be commercially reasonable, shall be the sole responsibility of LESSEE, and must be disclosed and acceptable to CITY at the time evidence of insurance is provided; such acceptance may not to be unreasonably withheld.
- 8.5 Continuity of Coverage. All policies shall be in effect on or before the first day of the Initial Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. LESSEE shall maintain all insurance required by this Lease throughout the Term and any extended use, without lapse. When a new insurance policy is obtained, LESSEE shall deliver to CITY, within ten (10) days thereafter, a certificate(s) showing that a new policy has been obtained which meets the requirements of this Lease. If insurance lapses or is discontinued for any reason, LESSEE shall immediately notify CITY and obtain replacement insurance.
- 8.6 Modification. To assure protection from and against the kind and extent of risk existing with the Premises, CITY, at its discretion, may require the revision of amounts and coverage at any time during the term of this Lease by giving LESSEE sixty (60) days prior written notice. LESSEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY'S reasonable re-evaluation of risk levels related to the Premises.
- 8.7 Accident Reports. LESSEE shall immediately report to CITY any accident causing property damage or injury to persons and related to the Premises. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- 8.8 Causes of Loss - Special Form Property Insurance. LESSEE shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of LESSEE'S insurable property related to the Premises in an amount to cover 100 percent (100%) of the replacement cost. LESSEE shall deliver to CITY a certificate of such insurance.

- 8.9 Self Insurance. LESSEE may self-insure the insurance requirements in this Lease that are legally self-insurable. Upon request, LESSEE shall provide CITY evidence of its ability to self-insure.
- 8.10 Waste, Damage, or Destruction. LESSEE shall immediately give notice to CITY of any fire or any other damage that occurs on the Premises of which LESSEE has knowledge. LESSEE shall not commit, or allow to be committed, any waste or injury or any public or private nuisance in connection with LESSEE'S occupancy or use of the Premises. LESSEE shall keep the Premises clean and clear of refuse and obstructions, and dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the Premises are damaged by any cause that puts them into a condition which is not decent, safe, healthy, and sanitary, LESSEE shall make, or cause to be made, full repair of the damage and restore the Premises to the condition which existed prior to the damage; or, at CITY'S option, LESSEE shall clear and remove from the Premises all debris resulting from the damage and restore the Premises in accordance with plans and specifications previously submitted to and approved by CITY in writing to replace in kind and scope the operation which existed prior to the damage. LESSEE shall commence preliminary steps toward performing repairs and/or restoration of the Premises as soon as practicable, but no later than thirty (30) calendar days after the occurrence of the fire or damage, and shall complete the required repairs and/or restoration of the Premises within one hundred eighty (180) calendar days after such occurrence.

SECTION 9: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 9.1 Acceptance of Premises. LESSEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises. LESSEE agrees it is relying solely on its independent inspections, tests, investigations, and observations in entering into this Lease. LESSEE acknowledges that the Premises are in the condition called for herein, that CITY has performed all work with respect to the Premises, and that LESSEE shall not hold CITY responsible for any defects, whether apparent or latent, in the Premises. LESSEE has been given the opportunity to investigate the Premises for the presence of any "hazardous substances," as defined below, including without limitation the opportunity to perform soil borings and other tests. LESSEE shall notify CITY if LESSEE'S investigations indicate the presence of any hazardous substances on the Premises. LESSEE waives any claims against CITY which may result from the presence of hazardous substances on the Premises as of the Commencement Date.
- 9.2 Entry and Inspection. CITY may at any time, without any obligation to do so, enter the Premises for the purpose of viewing and ascertaining the condition of the Premises, or to protect its interests in the Premises, or to inspect the operations conducted on the Premises. If CITY'S entry or inspection discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, after ten (10) days written notice to LESSEE, have any necessary maintenance work done in order to keep the Premises in a decent, safe, healthy, and sanitary condition, all at LESSEE'S sole cost and expense, and LESSEE shall promptly pay any and all costs incurred by CITY in having the necessary

maintenance work done. If at any time CITY determines that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. The bond shall be in an amount adequate in CITY'S opinion, to correct the unsatisfactory condition. LESSEE shall pay the cost of the bond. The rights reserved in this section shall not create any obligation on CITY or increase CITY'S obligations elsewhere in this Lease.

- 9.3 Maintenance. Except as otherwise provided herein, LESSEE shall make all repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with all applicable laws; provided, however, if any changes in applicable laws require any capital improvements to the Premises, then the cost of such capital improvements shall be amortized over the useful life of such improvements, and LESSEE shall only be responsible or liable for fifty percent (50%) of the portion of such amortized costs attributable to the remaining term of the Lease. All applicable codes and standards of city, state, and federal agencies shall be observed in all maintenance, repairs, and replacements on the Premises. LESSEE shall, continuously operate and maintain the Premises throughout the Term.
- 9.4 Shared Maintenance. LESSEE shall notify CITY of any maintenance or repair required to the facility LESSEE shares with CITY, including the building, ice-bridge, tower, and driveway (the "Shared Maintenance"). CITY may perform all reasonable Shared Maintenance in its sole discretion. LESSEE shall obtain CITY'S approval prior to performing any Shared Maintenance. The cost of the Shared Maintenance shall be borne equally by LESSEE and CITY. If LESSEE pays for Shared Maintenance, CITY shall apply fifty percent (50%) of LESSEE'S cost to rent or other amounts due or to become due under this Lease, and if no such amounts shall then be due or to become due, CITY shall reimburse such fifty percent (50%) of LESSEE'S cost within sixty (60) days after written demand therefor. If CITY pays for the Shared Maintenance, LESSEE shall reimburse CITY fifty percent (50%) of such cost within thirty (30) days after written demand therefor.
- 9.5 Improvements and Alterations. LESSEE shall not construct any improvements, structures, or installations on the Premises, or make any alterations to the Premises (with the exception of equipment replacements or repairs) without CITY'S prior written approval. LESSEE shall not make major structural or architectural design alterations to approved improvements, structures, or installations on the Premises without CITY'S prior written approval, which may not be unreasonably withheld.
- 9.5.1 Upgrading. If changes in technology occur during the Term that require upgrading the Communications Equipment, LESSEE may perform such upgrading, provided the upgrading does not damage or interfere with any adjacent improvements on the Site, subject to EXHIBIT C: Interference Protection Requirements.

9.5.2 Superior Interests. This Lease is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way pertaining to the Premises as of the Commencement Date, whether or not of record. LESSEE shall obtain all licenses, permits, and agreements from such third parties as may be necessary or reasonably advisable to validate its use of the Premises, relative to any such superior interest. If LESSEE'S use of the Premises is or becomes inconsistent or incompatible with a preexisting, superior interest, LESSEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.

9.5.3 Projects. LESSEE shall notify CITY of all improvement projects on the Premises and shall inform permitting authorities that the Premises are CITY-owned property.

9.5.4 Repair and Restoration. These provisions shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy and sanitary condition, including without limitation structural repair and restoration of damaged or worn improvements (provided, however, that if any structural repairs to the Premises are required, then the cost of such structural repairs shall be amortized over the useful life of such repairs, and LESSEE shall only be responsible or liable for fifty percent (50%) of the portion of such amortized costs attributable to the remaining term of the Lease).

9.5.5 Entire Installation. LESSEE represents and warrants that the Communications Equipment listed in the Addendum constitutes the entire installation, which LESSEE shall update from time to time upon CITY'S request.

9.6 Utilities.

LESSEE shall order, obtain, and pay for all utilities and service and installation charges in connection with its development and operation of the Premises. All utilities shall be installed underground.

9.7 Liens.

LESSEE shall at all times protect, defend indemnify and hold CITY harmless from and against any and all claims for labor or materials in connection with LESSEE'S use, improvement, alteration, maintenance, or repair of the Premises, and all costs of defending against such claims, including without limitation reasonable attorney fees. If LESSEE'S use, improvement, alteration, maintenance, or repair of the Premises results in a lien or notice of lien being filed against the Premises or Site LESSEE shall, within ten (10) business days after

such filing, either: (a) take all actions necessary to record a valid release of the lien; or (b) deliver to CITY a bond, cash, or other security acceptable to CITY in an amount sufficient to pay in full all claims of all persons seeking relief under the lien.

9.8 Taxes.

LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or LESSEE's interest in the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE, or levied by reason of LESSEE'S business or other LESSEE activities related to the Premises, including without limitation any licenses or permits. LESSEE acknowledges that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes therefore. LESSEE shall pay all such possessory interest taxes. LESSEE'S payment of taxes, fees and assessments shall not reduce any rent due CITY.

9.9 Signs.

LESSEE shall only post signs required by federal, state, or local regulations, including without limitation safety signs required by OSHA, FAA or FCC. LESSEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising on the Premises without CITY'S prior written consent. If any unauthorized item is found on the Premises, LESSEE shall remove the item at its expense within twenty-four (24) hours after CITY'S demand therefor, or CITY may then enter the Premises and remove the item at LESSEE'S cost. LESSEE shall post a clearly marked sign at the Premises indicating LESSEE'S name and emergency telephone number.

9.10 Ownership of Improvements and Personal Property.

LESSEE shall have the right to remove the Communications Equipment prior to the expiration of this Lease or, not later than thirty (30) days after the earlier termination of this Lease. At the expiration or upon the date that is thirty (30) days after the earlier termination of this Lease, at CITY'S option, any and all Communications Equipment or other improvements, trade fixtures, structures, and installations or additions to the Premises existing on the Effective Date or constructed on the Premises by LESSEE during the Term shall be deemed to be part of the Premises and shall become CITY'S property free of all liens and claims, except as otherwise provided in this Lease.

9.10.1 If CITY elects not to assume ownership of all or any improvements, trade fixtures, structures, and installations, CITY shall notify LESSEE at least one hundred eighty (180) days prior to the expiration of this Lease, or

upon the earlier termination of this Lease, and LESSEE shall remove the improvements, trade fixtures, structures, and installations as directed by CITY, all at LESSEE'S sole cost and expense. If LESSEE fails to remove any improvements, structures, and installations as directed, CITY may cause their removal, and LESSEE shall reimburse CITY on demand for the full cost thereof.

9.10.2 On or before Lease expiration, or within thirty (30) days after Lease termination, LESSEE shall remove from the Premises its Communications Equipment and any other LESSEE-owned machines, appliances, equipment (other than trade fixtures), and other personal property. If LESSEE fails to remove any of its personal property as required herein, then either: (a) the property shall be considered abandoned and become CITY'S property free of all claims and liens; or (b) CITY may cause the property's removal, and LESSEE shall reimburse CITY on demand for the full cost thereof.

9.10.3 LESSEE shall repair, at its sole cost and expense, all damage to the Premises resulting from the removal of LESSEE'S improvements, trade fixtures, structures, installations, and the Communications Equipment, machines, appliances, equipment, and other personal property.

9.10.4 If the removal of any of LESSEE'S property by either LESSEE or CITY takes place after Lease expiration or beyond CITY'S direction upon Lease termination, LESSEE shall pay rent to CITY at the rate in effect immediately prior to the expiration or earlier termination of this Lease, until all of LESSEE'S property has been removed from the Premises.

9.10.5 If LESSEE wants to dispose of any of its personal property used in the operation of its wireless communication facilities on the Premises, then CITY shall have the first right to acquire or purchase such property.

9.11 Unavoidable Delay.

If the performance of any Lease obligation is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, terrorist acts, or other causes beyond the reasonable control of the party required to perform the obligation or by the effects of any of the foregoing, the obligated party shall be excused from that performance during the period of such prevention or delay. This provision shall not apply to obligations to pay rent. If LESSEE or CITY claims the existence of a delay, the party claiming the delay shall notify the other party in writing of the fact within ten (10) days after the beginning of the claimed delay.

9.12 Site Plans/Locations.

LESSEE shall develop the Premises in accordance with plans approved by CITY'S Development Services Department and included in the applicable Addendum. CITY may, in its sole discretion, authorize changes to such plans, provided the principal components thereof are not modified, and a document evidencing approved changes is filed with CITY'S Real Estate Assets Department. LESSEE'S failure to comply with the approved plans shall be a default of this Lease.

9.13 Hazardous Substances.

LESSEE shall not cause the installation or release of hazardous substances in, on, under, or from the Premises or the Site. LESSEE and LESSEE'S agents and contractors shall not store, utilize, or sell any hazardous substance on the Premises or the Site without CITY'S prior written consent. For the purposes of this provision, a release shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and is incorporated into this Lease.

9.13.1 Remediation. If LESSEE'S occupancy, use, development, or maintenance of the Premises results in a release of a hazardous substance, LESSEE shall pay all costs of remediation and removal of the hazardous substance in accordance with all applicable laws, rules and regulations of governmental authorities.

9.13.2 Indemnity. LESSEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE'S occupancy, use, development, or maintenance of the Premises, including without limitation costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

9.13.3 Notice of Release. If LESSEE knows or has reasonable cause to believe that a hazardous substance has been released on or beneath the Premises or the Site, LESSEE shall immediately notify CITY and deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief. If LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, LESSEE take all actions necessary to alleviate the danger.

LESSEE shall notify CITY immediately of any written notice of violation received by LESSEE or written notice of initiation of environmental actions or private suits related to the Premises or the Site received by LESSEE.

9.13.4 Environmental Assessment. Upon reasonable cause to believe that LESSEE'S occupancy, use, development, or maintenance of the Premises or the Site ("LESSEE'S Operations"), resulted in any hazardous substance being released on or beneath a Premises or a Site in an amount constituting a reportable release under applicable laws, CITY may cause an environmental assessment of that Premises or Site to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at LESSEE'S sole cost and expense, and shall establish what, if any, hazardous substances have more likely than not been caused by LESSEE'S Operations on, in, or under the Premises or the Site, and in what quantities. If any such hazardous substances exist in quantities greater than allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal. LESSEE shall cause, or if LESSEE fails to do so within a reasonable period of time, CITY may cause, the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved, and LESSEE shall pay all costs and expenses therefor.

9.14 Radio-Frequency Radiation.

LESSEE shall maintain radio-frequency radiation within the levels allowed by Federal Regulations stated in Section 1.1310 of CFR 47 and OET Bulletin 65. Any area casually accessible by the general public or by any worker at ground level shall be maintained below limits stated for General Population/Uncontrolled Exposure. LESSEE shall report to CITY any areas discovered by LESSEE to exceed such federally mandated limits. LESSEE shall not hold CITY responsible for radiation levels found to exceed such limits. Hazardous RF radiation levels may be encountered when climbing on antenna structures [Refer to FCC OET Bulletin 65]. Any equipment installed on a Site may at times require shutdown to allow maintenance on antenna structures. LESSEE shall allow shutdown periods when required for such maintenance, provided CITY uses reasonable efforts to ensure that the shutdowns do not occur during peak hours of operation. Protection of employees performing service on buildings, roofs, air-conditioning equipment, water tanks, communications equipment, or any other maintenance work is of primary concern. Any areas in which such employees may be

subjected to radiation levels that exceed the General Population/Uncontrolled limits must be clearly identified as required by CAL-OSHA. LESSEE shall provide CITY with written shutdown procedures, contact names, and telephone numbers. LESSEE shall notify CITY in writing of any changes to the shutdown procedures, contact names or telephone numbers at least ten (10) days before the change.

9.15 Radio-Frequency Interference.

LESSEE shall comply with all requirements in EXHIBIT C: Interference Protection Requirements, attached hereto and as may be updated from time to time in CITY'S sole discretion. LESSEE warrants that all Communications Equipment installations, modifications, and maintenance will not result in degraded performance or radio frequency interference with any CITY-authorized equipment on the Site provided that the installation and operation of such CITY-authorized equipment pre-dates the installation of the Communications Equipment at any Site.

9.16 Industry Standards.

LESSEE shall perform all Communications Equipment installations, modifications, and maintenance in adherence to industry standards set by the "Standards and Guidelines for Communications Sites" Motorola R56© Manual, or any succeeding regulations or standards.

9.16.1 LESSEE shall remove all trash and debris from the Premises at the end of each workday and upon completion of a project.

9.16.2 Tower and structure climbing shall be done in compliance with all CAL-OSHA requirements.

9.16.3 All transmitters shall have all necessary protection, such as cavity filtering and transmitter isolators, to eliminate any RF degradation of the receive signal to other users on the Sites.

9.16.4 LESSEE'S installation or modification of equipment at sites used by CITY'S Communications Division ("CD") shall follow the additional requirements described in EXHIBIT E: Installation Standards, attached hereto and as may be updated from time to time in CITY'S sole discretion.

9.17 Site Access and Security.

LESSEE shall comply with the procedures described in EXHIBIT E: Water Department Site Security Procedures, attached hereto and as may be updated from time to time in CITY'S sole discretion. LESSEE'S failure to comply with such procedures shall be a default of this Lease.

9.18 CITY Water Tanks.

If LESSEE'S Communications Equipment is attached to CITY water tanks, upon CITY'S request, LESSEE shall immediately repair the water tanks at the attachment location, re-attach loose Communications Equipment, or otherwise change the attachment method as CITY may reasonably direct. LESSEE shall temporarily remove its Communications Equipment from CITY water tanks during periods of water tank maintenance and painting.

SECTION 10: CITY POLICY IMPLEMENTATION PROVISIONS

10.1 CITY'S Consent, Discretion.

Whenever required under this Lease, CITY'S consent or approval shall mean the written consent or approval of the CITY'S City Manager, or designee ("City Manager"), unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made in the City Manager's discretion, unless otherwise expressly provided.

10.2 Nondiscrimination.

LESSEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE'S use, development, and maintenance of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

10.3 Compliance with CITY'S Equal Opportunity Contracting Program.

LESSEE shall comply with San Diego Municipal Code ("SDMC") Sections 22.2701 through 22.2708, as amended, Equal Employment Opportunity Outreach Program ("EEOOP"), a copy of which is on file in the Office of the City Clerk and incorporated herein. LESSEE shall comply with the EEOOP, and shall require each of its sublessees and contractors to comply with the EEOOP. LESSEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE shall not discriminate against any employee or applicant for employment on any basis prohibited by law. On or before the Effective Date, LESSEE shall submit a current Work Force Report and a current Equal Employment Opportunity Plan ("EEO Plan") as may be required by SDMC Section 22.2705, which sets forth the actions that LESSEE will take to achieve CITY'S commitment to equal employment opportunities. LESSEE shall insert

the provisions of this section in all contracts and subleases related to this Lease to ensure that such provisions will be binding upon each such contractor and sublessee. LESSEE acknowledges that CITY'S Equal Opportunity Contracting Program staff will monitor and review LESSEE'S EEO Plan. LESSEE'S failure to comply with its EEO Plan, or submitting false information related to this section shall be a default of this Lease, and may result in debarment from participating in CITY leases and contracts for a period of not less than one (1) year.

10.4 Local Business and Employment.

LESSEE acknowledges that CITY promotes employment and business opportunities for local residents and firms in all CITY leases and contracts. To the extent legally possible, LESSEE shall solicit local residents and firms for employment applications, and contract bids and proposals related to this Lease. LESSEE shall hire qualified local residents and firms whenever feasible.

10.5 CITY Employee Participation Policy.

If LESSEE employs an individual who, within the twelve (12) months immediately preceding such employment, did in their capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council regarding the selection of LESSEE, CITY may unilaterally and immediately terminate this Lease, in its entirety. These provisions shall not apply to City Council Members.

10.6 Drug-Free Workplace Program.

LESSEE shall comply with the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

10.6.1 Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and the Site and specifying the actions that will be taken against employees for violations of the prohibition.

10.6.2 Establish a drug-free awareness program to inform employees about all of the following:

10.6.2.1 The dangers of drug abuse in the workplace.

10.6.2.2 LESSEE'S policy of maintaining a drug-free workplace.

10.6.2.3 Any available drug counseling, rehabilitation, and employee assistance programs.

10.6.2.4 The penalties that may be imposed upon employees for drug abuse violations.

10.6.3 LESSEE shall include in each of its subleases and contracts related to this Lease language obligating each sublessee and contractor to comply with the provisions of this section to maintain a drug-free workplace. LESSEE, and each of its sublessees and contractors, shall be individually responsible for their own drug-free workplace program.

10.7 Disabled Access Compliance.

LESSEE shall at all times in the occupancy, use, development, and maintenance of the Premises and the Site comply with the 1990 Americans with Disabilities Act ("ADA") and Title 24 of the California Code of Regulations (commonly known as the "building code") as defined in Section 18910 of the California Health and Safety Code and any other applicable federal, state, or local regulations hereafter enacted protecting the rights of people with disabilities (provided, however, that if any changes in such laws require any capital improvements to the Premises, then the cost of such capital improvements shall be amortized over the useful life of such improvements, and LESSEE shall only be responsible or liable for fifty percent (50%) of the portion of such amortized costs attributable to the remaining term of the Lease).

10.8 Water Quality Assurances.

LESSEE shall comply with San Diego Municipal Code Article 3, Division 3: Stormwater Management and Discharge Control ("Code"), and employ "Best Management Practices" including a "Storm Water Pollution Prevention Plan" as those terms are defined by the Code (collectively, "Prevention Plan") and as approved by CITY under its Stormwater Management Program. Within the first ninety (90) days of the Term, LESSEE shall submit a Prevention Plan satisfactory to CITY that will control erosion and reduce the amount of "Pollutants," as defined by the Code, and other sediments discharged from the Premises. CITY may review the Prevention Plan periodically. Within ninety (90) days after written notice from CITY requesting an update of the Prevention Plan, LESSEE shall submit an updated Prevention Plan to CITY'S satisfaction. LESSEE shall implement all changes to the Prevention Plan as required by CITY and to ensure compliance with all applicable laws, ordinances, and regulations. LESSEE shall inform its employees, contractors, subcontractors, agents and vendors of the Prevention Plan and ensure their compliance therewith.

SECTION 11: GENERAL PROVISIONS

11.1 Compliance with Law.

LESSEE shall at all times in the occupancy, development, use, operation, or maintenance of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE'S sole expense (provided, however, that if any changes in applicable law require any repairs or improvements to be made to the Premises, then the cost of such repairs or improvements shall be amortized over the useful life of such repairs or improvements, and LESSEE shall only be responsible or liable for fifty percent (50%) of the portion of such amortized costs attributable to the remaining term of the Lease). LESSEE shall comply with all notices issued by CITY under the authority of all current or future laws, statutes, ordinances, or regulations.

11.2 Notices.

11.2.1 Any notice required or permitted to be given under this Lease shall be in writing and may be served personally or sent by United States mail, postage prepaid, or by reliable overnight courier, addressed to any mortgagee, trustee, or beneficiary as shall be designated in writing by such person, but to the parties as follows:

If to LESSEE:

SAN DIEGO GAS & ELECTRIC COMPANY^[r1]
Corporate Real Estate
8335 Century Park Ct., CP11D
San Diego, CA 92123-1569

If to CITY:

THE CITY OF SAN DIEGO
Real Estate Assets Department
Attention: Real Estate Assets Director
1200 Third Avenue, Suite 1700, MS 51A
San Diego, CA 92101-4155

If to CITY'S Communications Division:

City of San Diego
Attention: Communications Division
Central Operations
1220 Caminito Centro
San Diego, CA 92102

If to CITY'S Water Department for site access in accordance with
EXHIBIT E: Water Department Site Security Procedures:

City of San Diego
Water Department
Attention: Program Manager
2797 Caminito Chollas
San Diego, CA 92105
619-527-3156

11.2.2 Any party entitled or required to receive notice under this Lease may by like notice designate a different address to which notices shall be sent.

11.2.3 Notice shall be effective upon personal service or five (5) days after deposit in the United States mail.

11.3 Partial Invalidity.

If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

11.4 Legal Fees.

If there is any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including without limitation court costs and attorney fees.

11.5 Number and Gender.

Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.

11.6 Captions.

The section headings and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the paragraphs and pages of this Lease may not be consecutive. The lack of consecutive numbers shall have no effect on the enforceability of this Lease.

11.7 Entire Understanding.

This Lease contains the entire understanding of the parties. CITY and LESSEE agree that there is no other written or oral understanding between them with respect to the Premises. Each party has relied on its own examination of the

Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each party to this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease. The failure or refusal of any party to read the Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such actions.

11.8 Lease Modifications.

This Lease shall not be modified, altered or amended unless the modification, alteration or amendment is in writing and signed by all parties to this Lease.

11.9 Time is of Essence; Provisions Binding on Successors.

Time is of the essence of all of the terms, covenants, and conditions of this Lease. Except as otherwise provided in this Lease, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

11.10 Survival.

Any obligation which accrues under this Lease prior to its expiration or earlier termination shall survive such expiration or earlier termination.

11.11 Standard of Conduct.

LESSEE and its employees shall at all times conduct themselves and the operations on the Premises in a creditable manner.

11.12 Supersedure.

As of the Effective Date, this Lease shall supersede and annul all prior leases, right-of-entry permits, or other agreements concerning LESSEE'S occupancy, use, development, and maintenance of the subject Site and Premises by and between CITY and LESSEE, and each such agreement shall be void and of no effect except as to any rentals and fees that may have accrued, or any rights and remedies accrued or granted to CITY under those agreements.

11.13 Cost Recovery.

CITY maintains a schedule of fees to be paid by LESSEE as an offset to administrative costs incurred for CITY staff services in connection with this Lease that are of benefit to LESSEE. CITY shall process LESSEE'S service requests upon receipt of LESSEE'S payment of an applicable fee. The fee

schedule, which is maintained by the City Clerk's Office, may be updated from time to time in CITY'S sole discretion.

11.14 Governing Law.

This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California.

11.15 Counterparts.

This Lease may be executed in any number of counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.16 Joint and Several Liability.

If LESSEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of LESSEE under this Lease.

11.17 Consents.

Except as otherwise expressly provided, consent to be given by either party shall not be unreasonably withheld or delayed.

11.18 San Diego's Strong Mayor Form of Governance.

All references to "City Manager" in this Lease and all subsequent amendments to this Lease shall be deemed to refer to "Mayor or his or her designee." This section shall remain in effect for the duration CITY operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of CITY'S City Charter.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

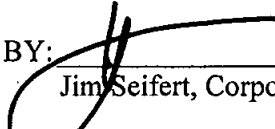
11.19 Authority.

Each individual executing this Lease on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Lease is binding upon such person or entity in accordance with its terms. Each person executing this Lease on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid, and such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

IN WITNESS WHEREOF, this Lease is executed to be effective as of the Commencement Date.

Date: 2/24/10

SAN DIEGO GAS & ELECTRIC COMPANY, a
California corporation

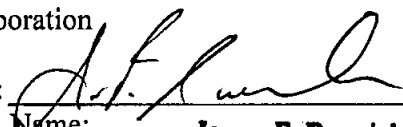
BY: 

Jim Seifert, Corporate Real Estate Manager

ASL

Date: 2/23/10

THE CITY OF SAN DIEGO, a California municipal
corporation

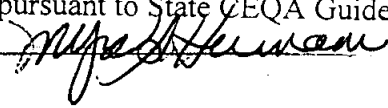
BY: 

Name: James F. Barwick, CCIM

Title: Director, Real Estate Assets

ENVIRONMENTAL ASSESSMENT SECTION CLEARANCE:

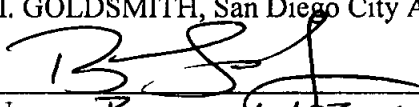
This activity is Categorical Exempt from CEQA pursuant to State CEQA Guidelines Section §15301.

 Michael Herman, Senior Planner

APPROVED AS TO FORM AND LEGALITY:

Date: 3/1/10

JAN I. GOLDSMITH, San Diego City Attorney

BY: 

Name: Brian LaRue

Title: SAN DIEGO CITY ATTORNEY

Exhibit A – Legal Description
Exhibit B – Site Plan/Location
Exhibit C – Equipment
Exhibit D – Interference Protection Requirements
Exhibit E – Installation Standards

EXHIBIT A – Legal Description

MOUNT WOODSON TELECOMMUNICATIONS CENTER

All that portion of Section 27, T13S, Range 1 West, San Bernardino Base and Meridian, according to the U.S. Government Survey, in the County of San Diego, State of California described as follows:

COMMENCING at the south quarter of said Section 27 from which the United States Coast and Geodetic Station "Woodson 1953" having the Lambert Zone 6, NAD83 coordinates of North 1,947,522.38 and East 6,340,730.94, bears North 23E43'31" W.406.11 feet; Thence South 89E19'37" West 177.51 feet along the South line of said Section 27; Thence North 19E48'36" West 376.84 feet, to a point having the Lambert Zone 6 NAD84 coordinates of North 1,947,532.05 and East 6,340,588.61, said point being the TRUE POINT OF BEGINNING; Thence South 89E11'09" West 410.94 feet; Thence North 20E08'21" West 83.00 feet; Thence South 89E11'09" West 250.00 feet; Thence South 20E08'21" East 100.00 feet; Thence South 89E11'09" West 450 feet' Thence North 20E08'21" West 200.00 feet; Thence North 89E11'09" East 250.00 feet; Thence North 20E08'21" West 50.00 feet; Thence North 89E11'09" East 450.00 feet; Thence North 20E08'21" West 53.22 feet; Thence North 89E11'09" East 210.94 feet; Thence South 20E08'21" East 64.55 feet; Thence North 89E11'09" East 201.37 feet; Thence South 19E48'36" East 221.22 feet to the TRUE POINT OF BEGINNING.

Above described exception parcel contains 5.2503 Acres.

TOGETHER WITH the right of ingress and egress thereto over and along an existing road, or its future relocation, running easterly from the Mt. Woodson/Palomar Telecommunications facility, through portions of Section 26, 34 and 35 to the existing location of the old Ramona-Poway Road. Said existing access road described in City of San Diego Field Survey notes by Lorne de Pron, January 26, 2000, L.C. Index 302-1733, W.O. 110013, on file in the Field Engineering office of the City of San Diego Land Surveyor.

EXHIBIT B – Site Plan/Location

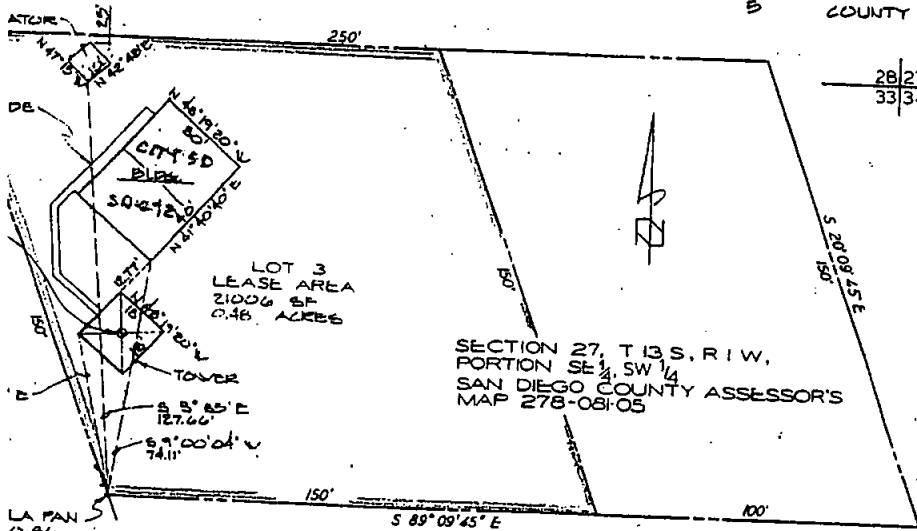
See attached Site Plan/Location.

[illegible]

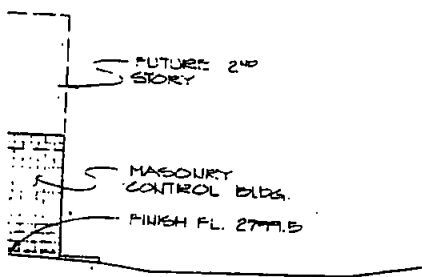
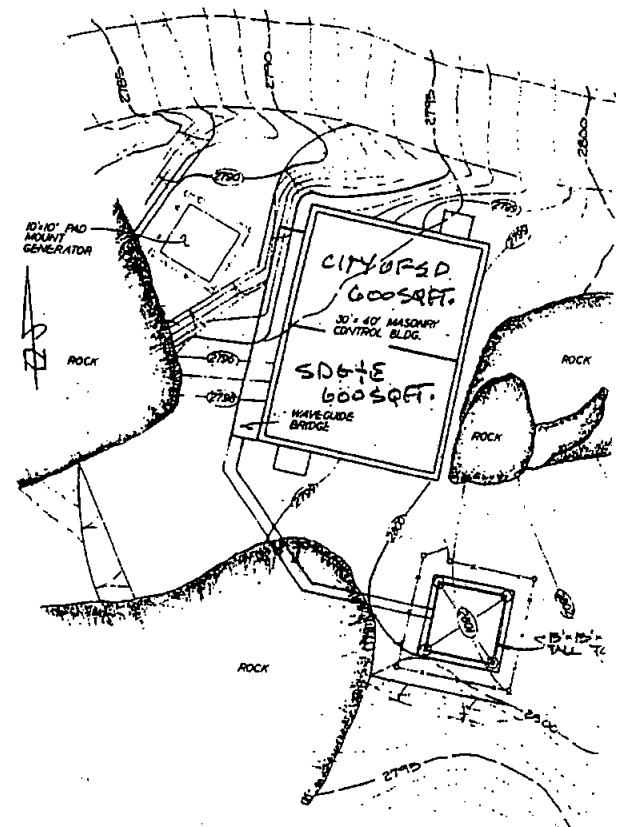
CITY OF SAN DIEGO MOUNT WOODSON

<u>LOT NO</u>	<u>AGENCY</u>
1	PACIFIC TELEPHONE & TELEGRAPH
2	PROMISED PALOMAR COMMUNICATIONS
2-A	U.S. NAVY
2-B	MERIDIAN

<u>LOT NO</u>	<u>AGENCY</u>
2-C	NATIONAL WEATHER SERVICE
B	SAN DIEGO GAS & ELECTRIC CO.
4	CITY OF SAN DIEGO
B	COUNTY OF SAN DIEGO



PLOT PLAN



NORTH

SAN DIEGO GAS & ELECTRIC COMP
SAN DIEGO, CALIFORNIA
PLOT PLAN
SDG & E CO. CITY OF SAN DIE
MICROWAVE STATION
MOUNT WOODS

EXHIBIT C – Equipment

Racks:

Row 1 - 9 racks
Row 2 - 8 racks
Row 3 - 6 racks
1 Rectifier Rack

Antennas:

Facing North:

1 @ 15 ft.
1 @ 20 ft.
1 @ 40 ft.
1 @ 60 ft.
1 @ 85 ft.

Facing South:

1 @ 30 ft.
1 @ 55 ft.
2 @ 120 ft.
1 @ 150 ft.

Facing East:

1 @ 30 ft.
1 @ 40 ft.
1 @ 60 ft.
1 @ 85 ft.
2 @ 120 ft.

Facing West:

1 @ 20 ft.
1 @ 45 ft.
1 @ 75 ft.
1 @ 80 ft.

EXHIBIT D
Interference Protection Requirements - Information, Technology,
and Communications Division Sites

- A. Interference. Prior to the Effective Date or at anytime during the Term of this Lease, LESSEE may be required to provide an intermodulation report ("Report") to CITY. This Report shall include the calculation parameters used to compile the Report, all intermodulation "hits," a brief description of the results of the intermodulation calculations; a list of possible interference situations that may result from the proposed Communications Equipment; transmission frequencies that are currently being operated at the Site, and similar or other relevant data from other permittees/lessees/users operating on-site. The information required to compile the Report, including intermodulation parameters and currently known transmission frequencies at the Site may be obtained from CITY'S Communications Division ("CD"). CITY is not responsible for any omitted data provided for the purpose of creating the Report. The Report shall be provided to CD, Senior Communications Engineer.
- B. City of San Diego Land Radio/Electronic Use "ON THE AIR" Test Instructions and Procedures. For the purpose of confirming interference situations calculated by the Report and for the discovery of any other actual interference situations, on-premises, pre-installation or pre-use tests may be required. The tests will determine whether or not radio frequency interference or degraded performance will result to any existing authorized radio/electronic type uses at the Site.

Pre-installation or pre-use Testing

- (1) LESSEE shall notify all permittees/lessees/users at the Site of the tests and details of the tests, at least fourteen (14) days in advance of the test. A listing of all permittees/lessees/users operating at the Site may be obtained from CITY and used to compile a notification list.
- (a) The notification shall be in the form of a letter to each listed permittee/lessee/user giving a technical data summary of the test and shall specify the date and hour the test will start. The letter of notification shall request the permittees/lessees/users to have a qualified representative present for the test to observe for possible interference problems and with authority to sign an interference or noninterference certification on behalf of the permittee/lessee/user. Technical Data Summary and Test Results Certification sheets are included below.
- (b) A copy of these instructions, "City of San Diego Radio/Electronic Land Use On-The-Air Test Instructions and Procedures" shall be attached to each notification and it shall be noted in the notification letter.
- (c) Notification to permittees/lessees/users shall be sent via U.S. Mail, pre-paid First-Class postage, certified return receipt requested or hand delivered.

- (d) The notification letter to the CD Senior Communications Engineer shall include a list of all permittees/lessees/users notified.
- (2) Following the completion of the tests, LESSEE shall provide a letter to the CD Senior Communications Engineer stating the test results obtained from each permittee/lessee/user participating in the test and a list of those permittees/lessees/users who did not respond.
- (3) If a notified permittee/lessee/user fails to send a qualified representative to observe and participate in the tests, it will be assumed by CITY that the permittee/lessee/user has assured itself that their operations will not be affected.
- (4) It shall be the responsibility of LESSEE to make complete arrangements and conduct all tests in accordance with applicable Federal/FCC Rules and Regulations.

C. On-The-Air Tests - Technical Details

Pre-installation or pre-use on-the-air tests shall be conducted by the LESSEE under the following technical conditions:

- (1) The LESSEE'S transmitting and/or receiving equipment shall be of the type planned for final use at the Site.
 - (a) The transmitted RF power shall be the maximum to be used and authorized at the Site.
 - (b) On-the-air transmitter tests shall include the use of full allowable modulation.
 - (c) Antenna height(s), location(s) and type(s) shall be the same or comparable to the final installation plan.
- (2) Tests shall include on-the-air operation of all participating transmitter(s) and receiver(s) in all possible combinations with the LESSEE'S electronic equipment.
- (3) All tests shall include testing with all frequencies planned for use by the LESSEE at the Site.

D. Radio Frequency Interference to City Radio Equipment

The radio equipment use proposed by LESSEE shall not directly or indirectly result in degraded technical performance of the CITY'S existing radio equipment installed at the Site or used in the general area. Resulting degraded technical performance in this instance will include, but is not limited to:

- (1) Detectable or measurable received intermodulation;

(2) Audio distortion or noise; and

(3) Receiver desensitization in excess of 3.0 dB with respect to 12dB SINAD test.

E. Modifications to Equipment

LESSEE shall notify CITY prior to modifications to transmitting equipment that will change effective radiated power, transmitter frequency, transmitter modulation, or transmitter spurious and harmonic emissions. These modifications may require retest using this "ON THE AIR" testing procedure and the newly proposed equipment.

F. Resulting Interference

LESSEE shall resolve interference problems that the Communications Equipment might cause with (i) other equipment located at the Premises on the Addendum Effective Date or (ii) when LESSEE desires to add additional Communications Equipment to the Premises, any equipment that became attached to the Premises between the Addendum Effective Date and such future date by initiating mutually agreeable actions with the affected parties. CITY may recognize the right of prior authorized permittees/lessees/users and withhold approval or disallow use of a new, retuned, or modified installation pending settlement of the interference problems between LESSEE and other authorized users. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by LESSEE as a result of CITY withholding approval and LESSEE waives any claim for expense or loss which LESSEE might incur as a result of CITY withholding approval.

TECHNICAL DATA SUMMARY

One form to be completed per transmitter and supplied to all permittees/lessees/users operating at the facility.

DATE _____

LOCATION _____ APPLICANT _____

CALL SIGN _____ CONTACT NAME _____ PHONE _____

TRANSMITTER

RECEIVER

Manufacturer _____ Manufacturer _____

Model _____ Model _____

Emission _____

Radiated ERP _____ Watts

Transmit Frequency _____

Receiver Frequency _____

CTCSS or DCS

1. _____

1. _____

1. _____

2. _____

2. _____

2. _____

3. _____

3. _____

3. _____

4. _____

4. _____

4. _____

ANTENNA

TRANSMIT CAVITY FILTER ISOLATOR

Make _____

Make _____

Make _____

Model/Type _____

Gain _____ dBd

Azimuth _____

REMARKS:

TEST RESULTS CERTIFICATION

Top section is to be completed and supplied to all permittees/lessees/users operating at the Site. Bottom section is to be completed by each existing Site permittee/lessee/user after testing is finished.

SUBJECT: "ON THE AIR" interference testing

SITE LOCATION _____

FREQUENCY _____

DATE OF TEST _____

TIME OF TEST _____

PROPOSED TRANSMITTER OWNED BY _____

TEST PERFORMED BY _____

Permittee/Lessee/User:

"On-the-air" interference testing has been completed at the above stated Site location. A qualified representative was present for the test to observe for possible interference problems.

With regard to the above test, this is to certify that objectionable radio frequency interference did ☐ did not ☐ result during this test.

Details of interference: (if applicable)

Proposed technical resolution: (if applicable)

(Tenant)

(Tenant's Representative)

(Date)

EXHIBIT E: Installation Standards for Information, Technology and Communications Division Sites

- a. All waveguide and coaxial cable runs shall be installed and supported on the tower, cable ladder, and ice bridges using equivalent hardware and methods to those currently used on site.
- b. All waveguide and coaxial cable shall be installed in a neat manner with sweeping bends and straight runs on the tower cable ladder and ice bridges.
- c. Three ground kits shall be installed as follows: Near the antenna, where the coax transitions to horizontal at the junction between the cable ladder and ice bridge, and where the cable enters the building. Grounds shall be installed to shunt any lightning directly to earth ground.
- d. All antenna mounts and hardware utilized on towers and structures shall be hot-dip galvanized or stainless steel and of standard manufacture.
- e. All drawings submitted for installation approval shall clearly show the following items:
 - (1) A plot plan of the site to include the building and tower location with the proposed equipment shown in its proposed location.
 - (2) A tower drawing, clearly showing the location of the proposed antenna and the routing of the waveguide or coax cable specifying grounding locations.
 - (3) If equipment is to be located inside the building, a drawing shall be provided showing the rack location of the equipment, an elevation drawing of the rack, and a plot plan of the equipment installed in the rack.
 - (4) A list of all equipment to be installed shall be provided. This list shall include the type and manufacturer of equipment, RF frequency, RF power, modulation type, RF filtering, antenna type, antenna model, antenna gain and azimuth, waveguide and/or coax cable length and AC power requirement including any HVAC.
- f. All transmitters shall have necessary protection to eliminate any RF degradation of the receive signal to any other user on the site, such as filtering and isolators.
- g. To minimize the number of antennas and waveguide or coax cables to be mounted on the tower, transmitter combining will be required whenever possible.
- h. All cabinets and racks shall be grounded to the site grounding system.
- i. If CITY determines that a tower loading analysis is required, the requesting user shall have the tower analysis done at its expense and provide CITY with information on how the additional load to the tower will affect tower structural integrity.

- j. Tower Climbing: All tower climbing shall be done in compliance with all CAL-OSHA requirements.
- k. RF Radiation: Hazardous RF radiation levels may be encountered when climbing on existing antenna structures. Refer to FCC OET Bulletin 65. When it is necessary to climb on the antenna structure for installation or maintenance, contact the CITY'S CD Fixed Maintenance Supervisor at (619) 525-8650 for shutdown scheduling and procedures. Any equipment installed on the Site may at times require shutdown to allow maintenance personnel to access the antenna structure.
- l. Lessees shall provide CITY with shutdown procedures and 24-hour contact names and telephone numbers. In addition, should changes be made to the contact names and telephone numbers, the CITY shall be notified at least ten (10) days before the change.
- m. Access: For access to the site, contact CITY'S CD Fixed Maintenance Supervisor at (619) 525-8650. Keys will be issued as required. **DO NOT DUPLICATE KEYS.**
- n. Security: All sites are alarmed with silent alarms and monitored 24 hours per day by the Public Service Dispatch Center. When entering or leaving a building, call (619) 527-7660 or use the order wire dial #13 and identify yourself. Police respond to all unanswered alarms.
- o. Cleanup: All trash and debris shall be removed from the site at the end of each work day and upon completion of the project.
- p. A detailed construction schedule shall be provided to CD prior to any installation work.