



**CITY OF SAN DIEGO
TELECOMMUNICATIONS LEASE**

between

THE CITY OF SAN DIEGO

and

Mobilitie Investments III, LLC

At

**Winterwood Neighborhood Park
7540 Winterwood Lane, San Diego, CA 92126**

(SD07118)

CITY OF SAN DIEGO TELECOMMUNICATIONS LEASE

This CITY OF SAN DIEGO TELECOMMUNICATIONS LEASE ("Lease") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and Mobilitie Investments III, LLC, a Delaware limited liability company ("LESSEE"), hereinafter collectively referred to as the "Parties," to be effective on the first day of the first month following the date of execution by CITY and approval by the San Diego City Attorney ("Effective Date").

RECITALS

A. CITY owns certain real property commonly known as **Winterwood Neighborhood Park**, located at 7540 Winterwood Lane in the City of San Diego, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the "Premises").

B. LESSEE and CITY desire to enter into this Lease in order to grant LESSEE the right to operate, and maintain a new wireless communications facility on non-contiguous portions of the Premises, totaling approximately 261.5 square feet (the "Site"), as described and depicted in the Site plans attached hereto as Exhibit B and incorporated herein by reference (the "Site Plans").

C. LESSEE and the CITY desire to establish their respective rights and responsibilities for LESSEE'S construction and operation of the new wireless communications facility and LESSEE'S use of the Site.

AGREEMENT

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

1. DEFINITIONS.

For the purposes of this Lease, the terms listed below are defined as follows:

- 1.1. "Communications Equipment" means the antenna support structure, antenna equipment, cable wiring, utility lines, transmission lines, air-conditioned equipment shelters, back-up power sources (that may include back-up power generators with connected fuel storage tanks for emergency power), and related fixtures that LESSEE will construct and maintain on the Site, more particularly described and depicted in the Site Plans attached as Exhibit B.
- 1.2. "Hazardous Substances" means any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
- 1.3. "CITY Contact" means the CITY'S Park and Rec. Supervisor or designee. For purposes of this Lease, the CITY Contact is currently Steve Palle, who can be contacted at (619) 235-1165.

- 1.4. "Gross Revenue" – any and all income and other consideration collected, received, or in any manner gained or derived by LESSEE from, or in connection with, the Site, either directly by LESSEE or indirectly through a reseller, if any, to customers of telecommunications services within the City of San Diego or to wireless carrier customers, including any imputed revenue derived from commercial trades and barter equivalent to the full retail value of the telecommunications services provided by LESSEE. Gross Revenue shall not include: (a) sales, ad valorem, or other types of "add-on" taxes, levies, or fees calculated by gross receipts or gross revenues which may be paid to or collected for federal, state, or local government, exclusive of the Annual Rent (defined in Section 5 below) paid to CITY as provided herein; (b) retail discounts or other promotions; (c) non-collectable amounts due LESSEE or its customers; (d) refunds or rebates; and (e) non-operating revenues such as interest income or gain from the sale of an asset.

2. LEASED PROPERTY.

- 2.1. Lease of Site. Under the terms and conditions of this Lease, CITY leases to LESSEE and LESSEE leases from CITY, the Site.
- 2.2. Access to Site. Unless otherwise provided, LESSEE, its agents, employees, contractors, guests, and invitees may enter the Premises on a 24-hour, non-exclusive basis to access the Site.
- 2.3. Memorandum of Lease. Upon LESSEE'S request, CITY shall execute and deliver to LESSEE a "Memorandum of Lease," substantially in the form attached hereto as Exhibit C, which LESSEE may record in the Office of the San Diego County Recorder.

3. USES.

LESSEE shall use the Site solely and exclusively for the purposes, with proper permits and approvals obtained, of installing, modifying, maintaining, operating, and removing, all at LESSEE'S sole cost and expense, LESSEE'S Communications Equipment ("LESSEE'S Operations").

- 3.1. Continuous Use. LESSEE shall continuously occupy and use the Site throughout the "Term" (defined below) of this Lease.
- 3.2. Unauthorized Use. The use of the Premises or Site for any unauthorized, illegal, or non-permitted purpose shall constitute a default of this Lease.

4. TERM.

The term of this Lease ("Term") shall be ten (10) years, commencing on the Effective Date. "Lease Year" shall mean each twelve (12) month period during the Term, commencing on the month and day of the Effective Date and continuing to the same month and day of the following year, minus one (1) calendar day.

- 4.1. Holdover. Any holding over by LESSEE (PERMITTEE) after expiration or termination shall not be considered as a renewal or extension of this lease.

The occupancy of the of the Site after expiration or termination shall be month-to-month, and all other terms and conditions of this agreement shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover at will. Calculation of all prorated rents under this section shall be based on a 30-day month. Notice of any such increase in rent shall be given in writing at least thirty (30) days prior to becoming effective.

- 4.2. Surrender. Upon the expiration or earlier termination of this Lease, LESSEE shall surrender the Site to CITY in a decent, safe, and sanitary condition, and free and clear of all liens and encumbrances caused by or resulting from LESSEE'S Operations, except those liens and encumbrances which: (1) existed on the Effective Date, and (2) exist after the Effective Date and are not the result of LESSEE'S Operations. Except otherwise stated in Section 31, below, LESSEE shall surrender the Site in the same condition as it was on the Effective Date, normal wear and tear excepted.

5. RENT.

LESSEE shall pay to CITY rent in the amount of \$38,000 (thirty eight thousand dollars) per year, in advance, subject to annual adjustments as of the first day of the second Lease Year and each Lease Year thereafter, as follows:

Lease Year Two	\$39,330.00
Lease Year Three	\$40,706.55
Lease Year Four	\$42,131.28
Lease Year Five	\$43,605.87
Lease Years Six – Ten	Market Rent Adjustments by Appraisal

The above rent schedule reflects an annual rent escalation equal to three and one-half percent (3.5%) above the annual rent for each preceding Lease Year. For the sixth through the tenth Lease Years, the rent may be adjusted upward pursuant to the "Market Rent Adjustments by Appraisal" section, below.

- 5.1. Market Rent Adjustments by Appraisal. At the end of the fifth Lease Year, the annual rent for the sixth Lease Year shall be adjusted to equal the then existing market rent as determined by an appraisal, which adjustment shall be effective as of the first day of the sixth Lease Year ("Adjustment Date"). Such appraisal shall be performed by a licensed 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 telecommunications sites, properties, and leases ("Qualified Appraiser") and shall be in conformance with Uniform Standards of Professional Appraisal Practice. In establishing the market rent for the Site, the Qualified Appraiser shall base the valuation on an appraisal not more than six (6) 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) calendar 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. Once adjusted, the annual rent for the remaining Lease Years shall increase on each anniversary of the Adjustment Date by an amount equal to three and one-half percent (3.5%) of the annual rent paid in the preceding Lease Year. In lieu of the above adjustment to market rent, CITY may determine that no market value adjustment is necessary and waive the requirement for an appraisal, in which case, the rent for each following Lease Year of the Term shall be set at three and one-half percent (3.5%) above the annual rent for each preceding Lease Year. In no event shall the rent ever decrease from the rental rate established for the previous Lease Year.

- 5.2. Time and Place of Payment. Rent is due annually in advance on or before the first day of each Lease Year. All rents required by this Lease shall be made payable to the City Treasurer and mailed to:

The City of San Diego
Office of the City Treasurer
P.O. Box 129030
San Diego, California 92112-9030

or hand delivered to:

Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, California 92101

LESSEE shall include CITY'S customer account number for LESSEE on the rent payment so CITY can apply the rent to the appropriate account. The place of payment may be changed at any time by CITY upon thirty (30) calendar days' prior written notice to LESSEE. Mailed 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.

- 5.3. Invoicing Courtesy. CITY may invoice LESSEE for amounts payable under this Lease. However, any such invoicing shall be deemed a courtesy only; LESSEE shall make all payments under this Lease on or before each applicable due date, regardless of being invoiced. No grace period shall apply to any amount payable under this Lease.
- 5.4. Delinquent Rent. If LESSEE fails to pay rent when due, LESSEE shall pay, in addition to the unpaid rent, five percent (5%) of the delinquent rent. If the rent is still unpaid after 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 the cost of servicing the delinquent account. In no event shall the charge for late payments of rent be less than Twenty-Five

Dollars (\$25). 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.

- 5.5. Rent for Additional Sub-leases. In addition to the Annual Rent, if LESSEE subleases the Site pursuant to Section 24.2.2 of this Lease, LESSEE shall pay to CITY, on an annual basis, a "Gross Revenue Fee" equal to fifty percent (50%) of LESSEE'S Gross Revenue received by LESSEE from each wireless carrier customer for the Site. The Gross Revenue Fee paid to CITY shall not include any CITY administrative fees such as permit fees, inspection fees, business taxes, other regulatory charges, or the Annual Rent paid pursuant to this Lease.
- 5.5.1. Yearly Gross Revenue Fee Statement. If LESSEE enters into a sublease pursuant to Section 24.2.2, LESSEE will furnish to CITY with each payment of Gross Revenue Fee a statement, executed by an authorized officer of LESSEE, which includes a list of each of LESSEE'S wireless carrier customers for the Site covered under this Lease, the corresponding revenue received by LESSEE from each wireless carrier customer for the Site covered under this Lease and the corresponding Gross Revenue due to the CITY. If LESSEE or CITY discovers any errors in the amount of compensation due, CITY will be paid within thirty (30) calendar days of discovery of the error.
- 5.6. Processing Fee. LESSEE shall pay CITY a one-time, non-refundable Long-Term processing fee of Four Thousand Nine hundred Twenty Dollars (\$4,920), payable upon full execution of this agreement and delivered to the Real Estate Assets Department at Civic Center Plaza, 1200 Third Avenue, Suite 1700, San Diego, CA 92101. Payment should be made payable to the City Treasurer.
- 5.7. Financial Records. LESSEE shall maintain, in accordance with generally accepted accounting practices, complete and accurate financial records showing all receipts from its use of the Site. LESSEE shall make any and all of its records and accounts relating to its use of the Site available to CITY for inspection at a reasonable location and time, which shall be in the City of San Diego, so that CITY can determine LESSEE'S compliance with this Lease. LESSEE'S failure to keep and maintain records and make them available for inspection by CITY shall be a default of this Lease. LESSEE shall maintain all records and accounts for a minimum period of five (5) years past the expiration or earlier termination of this Lease. This section shall survive the expiration or earlier termination of this Lease.

6. QUIET POSSESSION.

LESSEE, paying the rent and performing its obligations under this Lease, shall, at all times during the Term, peaceably and quietly have, hold, and enjoy the Site. If during the Term, LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, this Lease shall not be voided thereby, and CITY shall not be liable to LESSEE for any loss or resulting damage, but there shall be determined and stated by CITY, in writing, a proportionate reduction of the rent for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the Site.

7. INSURANCE

LESSEE shall not begin any work on the Premises or Site until it has: (a) provided to CITY insurance certificates reflecting evidence of all insurance required below; however, the CITY reserves the right to request, and the LESSEE shall submit, copies of any policy upon reasonable request by the CITY; (b) obtained CITY approval of each insurance company or companies; and (c) confirmed with CITY that all policies contain the specific provisions required below. LESSEE'S liabilities, including but not limited to LESSEE'S indemnity obligations, under this Lease, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Lease and LESSEE'S failure to maintain or renew coverage or to provide evidence of renewal during the Term may be treated as a material breach of contract by the CITY. The LESSEE shall not modify any policy or endorsement thereto which increases the CITY'S exposure to loss for the Term.

7.1. Types of Insurance: At all times during the term of this Lease, the LESSEE shall maintain insurance coverage as follows:

a. Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$2 million per occurrence and subject to an annual aggregate of \$4 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

b. Commercial Automobile Liability. For all of the LESSEE'S automobiles including owned, hired and non-owned automobiles, the LESSEE shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

c. 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 the insurable property constructed and/or installed by LESSEE or at LESSEE'S direction on the Premises in an amount to cover 100 percent (100%) of the replacement cost. LESSEE shall deliver a certificate of such insurance to CITY'S Real Estate Assets Department.

c. Workers' Compensation. For all of the LESSEE'S employees who are subject to this Lease and to the extent required by the applicable state or federal law, the LESSEE shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the LESSEE shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives

- 7.2 Deductibles: All deductibles on any policy shall be the responsibility of the LESSEE and shall be disclosed to the CITY at the time the evidence of insurance is provided.
- 7.3 Acceptability of Insurers: Except for the State Compensation Insurance Fund, all insurance required by this Lease shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.
- 7.4 Modification: To assure protection from and against the kind and extent of risk existing with LESSEE'S Operations, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving LESSEE thirty (30) 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 Site.
- 7.5 Accident Reports: LESSEE shall immediately report to CITY any accident causing property damage or injury to persons on the Premises or otherwise related to the LESSEE'S Operations. 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.
- 7.6 Required Endorsements: The following endorsements to the policies of insurance are required to be provided to CITY before any work is initiated under this Lease.

7.6.1 Commercial General Liability Insurance Endorsements:

- i. Additional Insured: To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by LESSEE or on LESSEE's behalf, (b) LESSEE's products, (c) LESSEE's work, including but not limited to LESSEE's completed operations performed by LESSEE or on LESSEE's behalf, or (d) premises owned, leased, controlled or used by LESSEE.
- ii. Primary and Non-Contributory Coverage: The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and

representatives shall be in excess of LESSEE'S insurance and shall not contribute to it.

iii. Severability of Interest. The policy or policies must be endorsed to provide that the LESSEE'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

7.6.2 Automobile Liability Insurance Endorsements:

i. Additional Insured. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the LESSEE.

ii. Severability of Interest. The policy or policies must be endorsed to provide that LESSEE'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

7.6.3 Worker's Compensation Insurance Endorsements:

i. Waiver of Subrogation: The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for CITY.

8. ACCEPTANCE OF SITE.

LESSEE represents and warrants that LESSEE has independently inspected the Site and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Site. LESSEE agrees that LESSEE is relying solely on its independent inspections, tests, investigations, and observations in entering into this Lease. LESSEE acknowledges that the Site is in the condition called for herein and that LESSEE shall not hold CITY responsible for any defects, whether apparent or latent, at the Site. LESSEE has been given the opportunity to investigate the Site for the presence of any Hazardous Substances, 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 Site. LESSEE waives any claims against CITY which may result from the presence of Hazardous Substances on the Premises or Site.

9. SITE PLANS.

LESSEE shall develop the Site in accordance with Site Plans approved by CITY'S Development Services Department. LESSEE'S failure to comply with the Site Plans shall be a default of this Lease.

10. IMPROVEMENTS AND ALTERATIONS.

Other than as approved by the Site Plans, LESSEE shall not construct any improvements, structures, or installations on the Site, or make any alterations to the Site (with the exception of necessary maintenance and/or repairs that does not include swapping out or replacing any of the Communications Equipment) without CITY'S prior written consent. LESSEE shall not make any structural or architectural design alterations to approved improvements, structures, or installations on the Site without CITY'S prior written consent.

- 10.1. Landscaping. LESSEE shall install landscaping and irrigation (collectively, "Landscaping") on the Site in conformance with the description of the Site and Premises set forth in Exhibit A and the approved Site Plans set forth in Exhibit B. The installation of irrigation shall include connection to CITY'S existing irrigation system at the Site. LESSEE shall maintain the Landscaping installed on the Premises or Site to the reasonable satisfaction of the CITY Contact for a period of two (2) years from the date the Landscaping passes final inspection by CITY. The Landscaping shall be maintained in accordance to CITY'S landscape standards, attached hereto as Exhibit G, except that CITY will be responsible for watering the Landscaping during this two-year period. After the two-year period, CITY will maintain the Landscaping installed on the Premises or Site for the remainder of the Term.
- 10.2. Alterations to Communications Equipment. LESSEE shall not make any alterations, additions or improvements to the Communications Equipment, except for routine maintenance that does not include swapping out or replacing any the Communications Equipment, unless: (1) LESSEE obtains CITY'S prior written consent, which shall be granted in the CITY'S sole discretion; (2) the alterations, additions or improvements do not damage or interfere with any adjacent improvements on the Site and/or Premises; and (3) the alterations, additions or improvements comply with the requirements set forth in Exhibits D and E. Nothing in this section shall be construed to eliminate LESSEE'S obligation to obtain development related permits and approvals for any alterations to the Communications Equipment that may be required by CITY'S Development Services Department or any other governmental agency.
- 10.3. Information to Permitting Authorities. In obtaining any required permits for improvements, structures, installations, and/or alterations on the Site, LESSEE shall inform permitting authorities, in writing, that the Premises are CITY-owned property. If requested by LESSEE, CITY will reasonably cooperate in providing written confirmation that LESSEE is authorized to use the Site for LESSEE'S Operations, at LESSEE'S sole cost and expense, when necessary for LESSEE to petition the appropriate public bodies for all federal, state, and local permits, licenses and other approvals necessary to operate under this Lease.

- 10.4. Repair and Restoration. Nothing in Section 10 shall relieve LESSEE of any obligation under this Lease to maintain the Site in a decent, safe, healthy, and sanitary condition, including, without limitation, structural repair and restoration of damaged or worn improvements.

11. COMPETENT MANAGEMENT.

Throughout the Term, LESSEE shall provide competent management of the Site for the permitted uses to the reasonable satisfaction of CITY. "Competent management" shall mean demonstrated ability in the management and operation of a wireless communication facility and related activities in a responsible manner and in accordance with industry standards.

12. COMPLIANCE WITH LAWS AND POLICIES.

- 12.1. General. LESSEE'S Operations shall, at all times, comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE'S sole cost and expense. LESSEE shall comply with all notices issued by CITY under the authority of all current or future laws, statutes, ordinances, or regulations. Upon receipt of same, LESSEE shall promptly deliver to City copies of all documentary evidence of such compliance received by or otherwise available to LESSEE.
- 12.2. Nondiscrimination. LESSEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, gender identity, gender expression, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE'S Operations, including, but not limited to, the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
- 12.3. Equal Benefits. LESSEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require lessees of City-owned property to offer the same employment benefits to employees with spouses and employees with domestic partners. To the extent so required by the San Diego Municipal Code, LESSEE shall certify that it will maintain such equal benefits throughout the term of this Lease.

13. WATER QUALITY ASSURANCES.

The CITY and LESSEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities on the Site in a manner which aids in the protection of the City of San Diego's precious water resources. It is the LESSEE's responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of San Diego Storm Water Management and Discharge Control Ordinance (San Diego Municipal Code Sections 43.0301 to 43.0312).

Therefore, LESSEE shall, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under the San Diego Municipal Code Section 43.0307(a).

It is ultimately the LESSEE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, the LESSEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

14. TELECOMMUNICATIONS PROVISIONS.

- 14.1. Radio Frequency Radiation. LESSEE shall maintain any radio frequency ("RF") radiation associated with the wireless communications facility within the levels allowed by federal regulations set forth in Section 1.1310 of Title 47 of the Code of Federal Regulations. Any area within one thousand (1,000) feet of any RF transmitting antenna on the wireless communications facility, casually accessible by the general public or by any worker at ground level, shall be maintained below limits stated in CFR Title 47 for General Population/Uncontrolled Exposure. LESSEE shall report to CITY any areas discovered by LESSEE to exceed such federally mandated limits. LESSEE shall defend and hold the CITY harmless for any liabilities, fines or other penalties claimed or imposed against the CITY that result from the existence of excessive levels of radiation that are caused in whole or in part, or contributed to, by LESSEE'S Operations. Hazardous RF radiation levels may be encountered when climbing on antenna structures (refer to FCC OET Bulletin 65). 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 Exposure limits must be clearly identified as required by CAL-OSHA. Additional information regarding these exposure limits can be found in the FCC's OET Bulletin 65, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," and in supplements to Bulletin 65, all available at the FCC's Internet Web site: <http://www.fcc.gov/oet/rfsafety>.
- 14.2. Radio Frequency Interference. LESSEE shall comply with all requirements set forth in Exhibit D, which may be updated from time to time in CITY'S sole discretion. LESSEE warrants that LESSEE'S Operations shall not result in degraded performance or RF interference with any CITY-authorized uses at the Premises.
- 14.3. Industry Standards. LESSEE shall perform LESSEE'S Operations in adherence to industry standards set by the "Standards and Guidelines for Communications Sites" Motorola R56© Manual, or any succeeding regulations or standards. In addition to the requirements of the Motorola R56© publication, LESSEE shall comply with the following supplemental requirements:
- 14.3.1. LESSEE shall remove all trash and debris from the Site and/or Premises at the end of each workday;

- 14.3.2. Tower and structure climbing shall be done in compliance with all CAL-OSHA requirements;
- 14.3.3. 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 at the Premises; and
- 14.3.4. LESSEE shall comply with the requirements set forth in Exhibit E with respect to LESSEE'S Operations. City may, in its sole discretion, update Exhibit E from time to time.
- 14.4. Other Facilities. LESSEE shall not access any other wireless communication facility or CITY-owned communications equipment (including any towers) located on the Premises without CITY'S prior consent.
- 14.5. Interference with CITY Operations or Public Use. LESSEE'S Operations shall not interfere with CITY operations or the public's use of CITY-owned property.

15. WASTE, DAMAGE, OR DESTRUCTION.

LESSEE shall immediately give notice to CITY of any fire or any other damage that occurs on the Site and/or Premises, either during or after the completion of construction of approved improvements. LESSEE shall not commit, or allow to be committed, any waste or injury or any public or private nuisance in connection with LESSEE'S Operations. LESSEE shall keep the Site and/or Premises clean and clear of refuse and obstructions, and dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the Site and/or Premises is damaged by any cause that puts the Site and/or Premises 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 Site and/or Premises to the condition which existed prior to the damage; or, at CITY'S option, LESSEE shall clear and remove from the Site and/or Premises all debris resulting from the damage and restore the Site and/or Premises in accordance with plans and specifications previously submitted to and approved by CITY, in writing, in order 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 Site and/or Premises as soon as practicable, but no later than ten (10) calendar days after the occurrence of the fire or damage, and shall complete the required repairs and/or restoration of the Site within sixty (60) calendar days after such occurrence. Failure to timely repair damage to the Site and/or Premises will be considered a default under the Lease.

16. HAZARDOUS MATERIALS.

LESSEE shall not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance or otherwise regulated substances in, on, under or from the Site and/or Premises by any of LESSEE'S officers, employees, agents, contractors, invitees and guests. LESSEE and LESSEE'S officers, employees, agents, contractors, invitees and guests shall not install, store, utilize, generate or sell any Hazardous Substance on the Site and/or Premises without CITY'S prior written consent. LESSEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without

limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

- 16.1 Release. For all purposes of this Lease, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
- 16.2 Remediation. If LESSEE'S occupancy, use, development, maintenance, or restoration of the Site results in a release of a Hazardous Substance, LESSEE shall pay all costs of remediation and removal to the CITY'S satisfaction for unrestricted reuse of the Premises, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 16.3 Removal. If LESSEE or LESSEE'S officers, employees, agents, contractors, invitees and guests has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Site and/or Premises, LESSEE shall remove all Hazardous Substances in any type of container, equipment or device from the Site immediately upon or prior to the expiration or earlier termination of this Lease. CITY reserves the right to conduct inspections of the Site and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Site. LESSEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.
- 16.4 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, maintenance, or restoration of the Site and/or Premises, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, LESSEE'S officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 16.5 Notice of Release. If LESSEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Site and/or Premises, LESSEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. LESSEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If LESSEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, LESSEE shall take all actions necessary to alleviate the danger. LESSEE shall

immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Site.

16.6 Environmental Assessment. Upon reasonable cause to believe that LESSEE'S occupancy, use, development, maintenance, or restoration of the Site resulted in any Hazardous Substance being released on, from or beneath the Site or Premises, CITY may cause an environmental assessment under regulatory oversight of the suspect area 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 occupancy, use, development, maintenance, or restoration of 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, or require future restricted re-use of the Site and/or Premises, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in 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, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Site and/or Premises and compliance with environmental laws and regulations are achieved, and LESSEE shall pay all costs and expenses therefor.

17. SIGNS.

LESSEE shall only post signs required by federal, state, or local regulations, including, without limitation, safety signs required by OSHA, FAA, and/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 and/or Site without CITY'S prior written consent, which consent shall be in CITY'S sole discretion. If any such unauthorized item is found on the Premises and/or Site, LESSEE shall remove the item at LESSEE'S sole cost and expense within twenty-four (24) hours after CITY'S demand therefor, or CITY may then enter the Site and/or Premises and remove the item at LESSEE'S cost and expense. LESSEE shall post a clearly marked sign at the Site indicating LESSEE'S name and emergency telephone number.

18. MAINTENANCE.

LESSEE shall, at its sole cost and expense, continuously maintain the Site throughout the Term. In doing so, LESSEE shall, at its sole cost and expense, make all repairs, restoration, and replacements (including structural repairs and restoration of damaged or worn improvements) necessary to maintain and preserve the Site in a decent, safe, healthy, and sanitary condition. All such maintenance, repairs, restoration, and replacements shall be completed to the satisfaction of CITY, in conformance with the description of the Site and Premises set forth in Exhibit A, the approved Site Plans set forth in Exhibit B, Park Maintenance Standards in Exhibit G and in compliance with all applicable codes and

standards of CITY, state, and federal agencies. This provision is not meant to supersede the obligations of the Parties stated in Section 10.1 in regards to Landscaping.

- 18.1. CITY Maintenance. CITY reserves the right to perform any needed maintenance on the Site at any time. If CITY performs such maintenance, CITY shall provide LESSEE with at least forty-eight (48) hours' notice prior to commencing the work (except in the event of an emergency, in which case, no prior notice shall be required, but CITY shall give LESSEE notice as soon as reasonably possible thereafter), and LESSEE shall comply with all applicable safety requirements issued by CITY to ensure the safety of CITY personnel performing such maintenance on the Site.
- 18.2. Emergency Maintenance Procedures. The Parties shall comply with the emergency maintenance procedures set forth in Exhibit F, including the requirement to notify the other party, in writing, of any changes to its emergency contacts and telephone numbers.

19. ENTRY AND INSPECTION.

CITY may, at any time, without any obligation to do so, enter the Site for the purpose of viewing and ascertaining the condition of the Site, or to protect CITY'S interest in the Site, or to inspect the operations conducted on the Site. Except in the case even of an emergency, CITY must provide LESSEE with at least forty-eight (48) hours' notice prior to entering any locked portion of the Site that is not accessible to the public. If CITY'S entry or inspection discloses that the Site are not in a decent, safe, healthy, and sanitary condition, CITY may, after ten (10) calendar days written notice to LESSEE, have any necessary maintenance work done in order to keep the Site 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 Site 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.

20. UTILITIES.

LESSEE shall order, obtain, and pay for all utilities, including installation and service charges, in connection with LESSEE'S Operations. All utilities on the Site shall be installed underground and shall be used for LESSEE'S Operations only. Utilities shall be constructed and located in accordance with the approved Site Plans.

21. TAXES.

LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Site, 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 Site, 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 levied on the leasehold interests. LESSEE shall pay all such possessory interest taxes. LESSEE'S payment of taxes, fees, and assessments shall not reduce any rent due CITY.

22. SUPERIOR INTERESTS.

This Lease is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases, licenses, easements, and rights-of-way pertaining to the Site, whether or not of record. LESSEE shall obtain all licenses, permits, and agreements from such third parties as may be or may become necessary or reasonably advisable to allow LESSEE'S Operations, relative to any such superior interest. If LESSEE'S Operations are or become 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.

23. ENCUMBRANCES.

Only with CITY'S prior written consent in each instance, which consent shall be in CITY'S sole discretion, and upon the condition that LESSEE apply any Site-related loan proceeds exclusively to its installation of wireless communication facilities on the Site, LESSEE may pledge its leasehold estate hereunder to secure its performance under the subject debt instrument.

- 23.1. Use of Loan Proceeds. A reasonable portion of such loan proceeds may be disbursed for payment of incidental costs of installing LESSEE'S wireless communication facilities on the Site, including, but not limited to, the following: off-site improvements for service of the Site; 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 installation.
- 23.2. Subsequent Encumbrances. After the Site is 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.
- 23.3. Acceptance of Approved Mortgagee or Beneficiary. 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.

- 23.4. Encumbrance Approved by CITY. 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.
- 23.5. 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 Site, 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 Site results in a lien or notice of lien being filed against the Premises and/or Site LESSEE shall, within five (5) calendar 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.

24. ASSIGNMENT AND SUBLETTING.

24.1. Assignment.

- 24.1.1. For the purposes of this section, “Assignment” shall include, without limitation, the transfer of any interest in this Lease by LESSEE or by any partners, principals, or controlling shareholders of LESSEE, 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.
- 24.1.2. LESSEE shall not assign this Lease, or any interest in this Lease, without CITY’S prior written consent, which consent shall be in CITY’S sole discretion. LESSEE shall not assign this Lease, or any interest in this Lease, to any person or entity engaged in the design, development, construction, operation, sale, and/or leasing of telecommunication towers or poles.
- 24.1.2.1 Notwithstanding the foregoing, the transfer of the rights and obligations of LESSEE to a parent, subsidiary, or other affiliate of LESSEE or to any successor in interest or entity acquiring fifty-one (51%) or more of LESSEE’S stock or assets (collectively “Exempted Transfers”) shall not be deemed an assignment for the purposes of this Lease and therefore shall not require the consent of CITY, provided that LESSEE reasonably demonstrates to CITY’S lawfully empowered designee the

following criteria (collectively the "Exempted Transfer Criteria"): (i) such transferee will have a financial strength after the proposed transfer at least equal to that of LESSEE immediately prior to the transfer; (ii) any such transferee assumes all of LESSEE'S obligations hereunder, and (iii) the experience and technical qualifications of the proposed transferee, either alone or together with LESSEE'S management team, in the provision of telecommunications or similar services, evidences an ability to operate LESSEE'S network and fulfill LESSEE'S obligations under the Lease. LESSEE shall give at least thirty (30) days prior written notice (the "Exempted Transfer Notice") to CITY of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why LESSEE believes the Exempted Transfer criteria have been satisfied. CITY shall have a period of thirty (30) days (the "Exempted Transfer Evaluation Period") from the date that LESSEE gives CITY its Exempted Transfer Notice to object in writing to the adequacy of the evidence contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until CITY has received from LESSEE any and all additional information CITY may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as CITY gives LESSEE notice in writing of the additional information CITY requires within fifteen (15) days after CITY'S receipt of the original Exempted Transfer Notice. If CITY fails to act upon LESSEE'S Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the forgoing provisions) such failure shall be deemed an affirmation by CITY that LESSEE has in fact established compliance with the Exempted Transfer Criteria to CITY'S satisfaction.

- 24.1.3. CITY'S consent to any Assignment pursuant to Section 24.1.2 shall be conditioned upon the assignee agreeing, in writing, that it will assume the rights and obligations assigned, and that it will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired.
- 24.1.4. LESSEE shall not permit any person or entity (other than the employees, agents, contractors, City approved sub-lessees and their contractors, and/or guests of LESSEE) to use or occupy the Site, or any part of the Premises.
- 24.1.5. Consent by CITY to any Assignment of this Lease pursuant to Section 24.1.2 shall not be deemed to be consent to any subsequent Assignment to the same or any other person.

- 24.1.6. Neither this Lease nor any interest herein shall be assignable as to LESSEE'S interest herein by operation of law, without CITY'S prior written consent.
- 24.1.7. Any Assignment of this Lease, or any use or occupancy of the Site and/or Premises by any other person or entity, in violation of the foregoing provisions (Sections 24.1.1 through 24.1.6) shall be void and a default of this Lease, and CITY may thereupon terminate this Lease.
- 24.2. Subletting. LESSEE shall not sublet, in whole or in part, the Site, or any right or appurtenant privilege to the Site, except as provided herein,
- 24.2.1. City hereby acknowledges and consents to the sublease and current use and occupancy of the Site by **T-Mobile West LLC, a Delaware limited liability company** ("SUBLESSEE") without any additional consideration. The use and occupancy of the Site by SUBLESSEE is subject to all terms and conditions of this Lease. The sublease will be and shall remain subject and subordinate to this Lease, as may be amended from time to time. If there is a conflict between the sublease and this Lease, the terms, conditions, and obligations of this Lease shall control. CITY'S consent to the sublease with SUBLESSEE shall be subject to the following terms and conditions:
- 24.2.1.1 The sublease shall not release LESSEE from any liability, whether past, present, or future, under this Lease as to the Site or any portion thereof;
- 24.2.1.2 The sublease shall not authorize any additional uses of the Site, or allow additional Communications Equipment be installed on the Site, which are not authorized in this Lease;
- 24.2.1.3 The sublease shall not alter the primary liability of LESSEE to pay the rent and perform all of LESSEE's obligations under this Lease;
- 24.2.1.4 The sublease shall not be construed as a waiver of CITY's right to consent to any proposed sublease or agreement after the date hereof by LESSEE under this Lease, or as a consent to any portion of the Site in the sublease being used or occupied by any other party;
- 24.2.1.5 The sublease shall not grant any rights to the SUBLESSEE greater than those rights granted to LESSEE under this Lease;
- 24.2.1.6 The sublease shall not require CITY to recognize SUBLESSEE in the event of a default in the Lease by LESSEE;
- 24.2.1.7 The sublease shall not enlarge or in any manner increase CITY's obligations or duties under this Lease;

- 24.2.1.8 The sublease shall not create obligations or costs to CITY with regard to the sublease;
- 24.2.1.9 The sublease shall not modify, waive, amend, or otherwise affect any provision of this Lease;
- 24.2.1.10 The sublease shall not be deemed to be any type of obligation by CITY to LESSEE, SUBLESSEE or to any governmental agent, board, commission, or agency with regard to any other action relating to SUBLESSEE's occupancy, use, or maintenance of any portion of the Site or improvements thereon;
- 24.2.1.11 Prior to LESSEE allowing SUBLESSEE's use or occupancy of the Site, LESSEE shall cause to be filed with the CITY, a copy of the certificates of insurance demonstrating that SUBLESSEE is in compliance with all of the insurance requirements in Section 7, which shall name LESSEE and the "City of San Diego, its elected officials, officers, representatives, agents, and employees, as additional insureds for the entire term of the sublease agreement. CITY reserves the right to request, and LESSEE shall provide upon request, a copy of the policy of insurance if so requested.
- 24.2.1.12 SUBLESSEE shall protect, defend, indemnify, and hold CITY, 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 injury to SUBLESSEE'S officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this Lease or SUBLESSEE'S occupancy, use, development, maintenance, or restoration of the Site, including damages arising out of release of hazardous materials, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that SUBLESSEE'S duty to indemnify and hold harmless shall not include any established liability arising from the sole negligence or willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, SUBLESSEE shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.

24.2.2. LESSEE shall not sublet, in whole or in part, the Site or any right or appurtenant privilege to the Site other than to SUBLESSEE as provided in Section 24.2.1, without CITY'S prior written consent, which consent shall be in CITY'S sole discretion and shall require that additional rent in the form of a Gross Revenue Fee be paid pursuant to Section 5.5 herein.

24.3. Provisions Binding on Successors. 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.

25. INDEMNIFICATION.

LESSEE shall protect, defend, indemnify, and hold CITY, 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 injury to LESSEE'S officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this Lease or LESSEE'S occupancy, use, development, maintenance, or restoration of the Site, including damages arising out of release of hazardous materials, and all 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 established liability arising from the sole negligence or willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, LESSEE shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.

26. OTHER GOVERNMENTAL ACTIONS.

By entering into this Lease, neither CITY nor the San Diego City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the development, occupancy, use, or maintenance of the Site. Discretionary action includes, but is not limited to any rezoning, variance, environmental clearance, or any other governmental approval that may be required for LESSEE'S Operations. LESSEE shall diligently seek, at its sole cost and expense, all entitlements and actions from both CITY and other governmental agencies with jurisdiction over the Site, as are necessary for LESSEE'S Operations.

27. CITY'S RESERVATION OF RIGHTS.

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

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

- 27.3. Entry. CITY may enter the Site to develop and/or make repairs to municipal resources and services. CITY shall not unreasonably interfere with LESSEE'S use of the Site and shall reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Site or to LESSEE'S Communications Equipment resulting from CITY exercising the rights reserved in this section. Such 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.

28. REASSIGNMENT OF SPACE.

At any time during the Term, but only once during the Term, CITY, in its sole discretion, may reassign LESSEE to a different location within the Premises ("Relocation Site").

- 28.1. Timing and Costs. LESSEE shall relocate its Communications Equipment to the Relocation Site either within ninety (90) calendar days after the execution of a written agreement between the Parties concerning the location and dimensions of the Relocation Site, or otherwise as soon as possible after receipt of all necessary permits and approvals required for any CITY construction or redevelopment project which requires such relocation, and receipt of all permits and approvals required for LESSEE'S use of the Relocation Site. LESSEE shall cooperate fully with CITY and its contractors during any reassignment, and shall pay all of LESSEE'S expenses associated with the reassignment.
- 28.2. Physical Relocation of Equipment. The physical relocation of all or any part of LESSEE'S Communications Equipment shall only be done by LESSEE or LESSEE'S contractors.
- 28.3. Broadcast and/or Receiving Capability. During physical relocation of the Communications Equipment to the Relocation Site, CITY will work with LESSEE to attempt to secure an alternative CITY-approved site for LESSEE to operate temporary installed communications equipment, which may include a CITY-approved temporary wireless communication facility on the Premises and which will be installed and maintained at LESSEE'S sole cost and expense.
- 28.4. No Agreement. If CITY and LESSEE are unable to agree on an acceptable Relocation Site, then LESSEE or CITY may terminate this Lease upon thirty (30) calendar days prior written notice, without further obligation thereto.
- 28.5. Site Redefined. After a reassignment and relocation as provided in this section, the Site shall be redefined to be the Relocation Site. CITY and LESSEE agree that "as built" drawings of the Relocation Site, including any access and utility easements, may be prepared by a licensed architect at LESSEE'S sole cost and expense. In such event, Exhibits A and B of this Lease, as applicable, shall be amended (pursuant to Section 33.12 below) to include a full description of the Relocation Site and the new "as built" drawings. Except as expressly provided in this section, any such reassignment and relocation shall not alter, modify, or otherwise change any of the terms or conditions of this Lease.

29. EMINENT DOMAIN.

If all or part of the Site 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 its beneficiary or mortgagee) shall be as follows:

- 29.1. Full Taking. If the entire Site is taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
- 29.2. Partial Taking - Remainder Unusable. If a partial taking of the Site occurs, and in the opinion of CITY, the remaining part of the Site 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. CITY shall provide LESSEE with the opportunity to demonstrate that the remaining part of the Site is suitable for LESSEE's Operations, and CITY shall consider any information provided in making CITY's determination.
- 29.3. Partial Taking - Remainder Usable. If a partial taking of the Site occurs, and in the opinion of CITY, the remaining part of the Site 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. CITY shall provide LESSEE with the opportunity to demonstrate that the remaining part of the Site is not suitable for LESSEE's Operations, and CITY shall consider any information provided in making CITY's determination. The rent shall be equitably reduced to reflect the portion of the Site taken, but only to the extent that LESSEE'S use of the Site is reduced or impaired.
- 29.4. 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.
- 29.5. Transfer. CITY may transfer CITY'S interests in the Site in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If such a transfer occurs, LESSEE shall retain whatever interest LESSEE may have in the fair market value of any improvements placed by LESSEE on the Site in accordance with this Lease.
- 29.6. No Inverse Condemnation. CITY'S exercise of any 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.

30. DEFAULT AND REMEDIES.

- 30.1. Default. Each of the following shall constitute an event of default under this Lease:

- 30.1.1. LESSEE'S failure to make any payment required under this Lease when due, if the failure continues for ten (10) calendar days past due following written notice of the failure by CITY;
- 30.1.2. LESSEE'S breach of any of its obligations under this Lease including Section 30.1.7, other than those requiring payment to CITY, and LESSEE either: (i) fails to cure the breach within thirty (30) calendar days following written notice from CITY; or, (ii) if such breach is not curable within thirty (30) calendar days, fails to commence to cure the breach within thirty (30) calendar days and to diligently pursue the cure to completion;
- 30.1.3. LESSEE voluntarily files any petition under any bankruptcy or insolvency act or law;
- 30.1.4. 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 (90) calendar days of filing;
- 30.1.5. LESSEE is adjudicated a bankrupt;
- 30.1.6. LESSEE makes a general assignment for the benefit of creditors; and
- 30.1.7. LESSEE uses the Site for any unauthorized purpose.

30.2. Remedies.

- 30.2.1. General. 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.
- 30.2.2. For Monetary Default. Upon LESSEE'S default for nonpayment under Section 30.1.1 of this Lease, CITY may, in its sole discretion, either give LESSEE, or any person claiming rights through LESSEE, a written Five-Day Notice to Pay or Quit, or CITY may terminate this Lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the Site or to possession of the Site, and CITY may enter and take possession of the Site and may recover the amount set forth below.
- 30.2.3. For Non-Monetary Default. Upon LESSEE'S default based upon Sections 30.1.2 through 30.1.7 of this Lease, CITY may, in its sole discretion, terminate this Lease, and all rights of LESSEE and of all persons claiming rights through LESSEE to the Site or possession of the Site, and CITY may enter and take possession of the Site and may recover from LESSEE the amount set forth below. If any default described in Sections 30.1.2 through 30.1.7 of this Lease is not curable within thirty (30) calendar 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.

30.2.4. CITY'S Recovery Upon Termination. Upon termination of the Lease due to LESSEE'S default, CITY may recover the sum of:

30.2.4.1 The worth at the time of award of any unpaid rent that had been due at the time of termination; plus

30.2.4.2 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

30.2.4.3 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

30.2.4.4 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

30.2.4.5 All other amounts in addition to or in lieu of those previously stated as may be permitted by California law.

30.2.4.6 As used in Sections 30.2.4.1 and 30.2.4.2, 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 30.2.4.3, 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 term "rent" shall include base rent and any and all other amounts that LESSEE is required to pay to CITY under this Lease.

30.2.4.7 The calculation of any sum under this section shall be based on a 30-day month and a 360-day year.

30.3. Leasehold Pledged as Security. 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) calendar days to cure the default or, if the default is not curable within thirty (30) calendar 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.

- 30.3.1. 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:
- 30.3.1.1 CITY may correct the default and charge the costs incurred to LESSEE'S account, which charge shall be due and payable within thirty (30) days of CITY'S statement of such costs is delivered to LESSEE and mortgagee or beneficiary;
 - 30.3.1.2 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
 - 30.3.1.3 CITY may terminate this Lease 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 costs.
- 30.3.2. 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) calendar 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.
- 30.4. Quitclaim Deed. Upon termination of this Lease for any reason, LESSEE shall execute, acknowledge, and deliver to CITY, within thirty (30) calendar days after written demand, a valid and recordable quitclaim deed relinquishing LESSEE'S interest in the Site. If LESSEE fails or refuses to deliver any such quitclaim deed, CITY may prepare and record a notice reciting LESSEE'S failure to perform such obligation, and such notice shall be conclusive evidence of the termination of this Lease and termination of LESSEE'S rights to the Site.

- 30.5. Abandonment by LESSEE. If LESSEE breaches this Lease and abandons the Site, 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, without limitation, the right to recover the rent as it becomes due, plus damages.
- 30.6. Waiver. CITY'S waiver of a default shall not constitute 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 a remedy or right shall not be a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default shall not waive the use of another remedy or right 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 Site 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, but CITY may, at all times, require the cure of any breach or default regardless of when discovered.

31. OWNERSHIP OF IMPROVEMENTS AND PERSONAL PROPERTY.

Except as otherwise provided in this section, all improvements constructed on the Site by LESSEE or by LESSEE'S contractors and/or subcontractors at any time during the Term, including any tower structure, equipment shelters, conduit, and fence (hereinafter referred to in this section as "LESSEE'S Improvements"), as well as all Communications Equipment, machines, and appliances brought to the Site by LESSEE or LESSEE'S contractors and/or subcontractors at any time during the Term (hereinafter referred to as "LESSEE'S Personal Property") shall be the property of LESSEE during the Term (hereinafter LESSEE'S Improvements and LESSEE'S Personal Property shall be referred to jointly as "LESSEE'S Property").

- 31.1. On or before the expiration of this Lease, or as CITY may direct upon earlier termination of this Lease, LESSEE shall remove from the Site LESSEE'S Property. If LESSEE fails to remove any of LESSEE'S Property as required herein, then either: (i) such property shall be considered abandoned and become CITY'S property free of all claims and liens; or (ii) CITY may cause such property's removal, and LESSEE shall reimburse CITY on demand for the full cost of the removal, storage and all other costs associated therewith.
- 31.1.1. If LESSEE desires to dispose of any of LESSEE'S Personal Property used in the operation of its wireless communication facilities on the Site, CITY shall have the first right to acquire or purchase such property.
- 31.2. LESSEE shall repair, at its sole cost and expense, all damage to the Premises or Site resulting from the removal of LESSEE'S Property from the Premises by LESSEE or LESSEE'S contractors and/or subcontractors.
- 31.2.1. If the removal of LESSEE'S Property by LESSEE or LESSEE'S contractors and/or subcontractors or by CITY takes place after expiration of this Lease, or beyond CITY'S direction upon earlier termination of this

Lease, 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 Site.

32. NOTICES.

Any notice required or permitted to be given under this Lease shall be in writing and may be served personally, sent by United States mail, postage prepaid, or sent by reliable overnight courier, addressed to the Parties as follows, or to any mortgagee, trustee, or beneficiary, as applicable, at the appropriate address designated, in writing, by the respective party:

If to LESSEE:

Mobilitie Investments III, LLC
Attn: Property Management Department
2220 University Drive
Newport Beach, CA 92660

If to CITY:

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

- 32.1. Address Changes. 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.
- 32.2. When Effective. Notice shall be effective upon personal service, or five (5) calendar days after deposit in the U. S. mail.

33. MISCELLANEOUS PROVISIONS.

- 33.1. Governing Law. This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California. Any lawsuit to enforce this Lease shall be filed in the County of San Diego, California.
- 33.2. 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 LESSEE'S Operations. Each party has relied on its own examination of the Site, 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 this Lease or other documents, inspect the Site, 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.

- 33.3. 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 Operations on the Site or 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.
- 33.4. 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.
- 33.5. Time of the Essence. Time is of the essence for each and every term, covenant, and condition of this Lease.
- 33.6. Standard of Conduct. LESSEE and its employees shall, at all times, conduct themselves and LESSEE'S Operations on the Site in a creditable manner and in accordance with industry standards.
- 33.7. 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.
- 33.8. Unavoidable Delay. If the performance of any act required of CITY or LESSEE under this Lease is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, that party shall be excused from performing that act for a period equal to the period of the prevention or delay. This provision shall not apply to LESSEE'S obligation to pay rent. If CITY or LESSEE claims the existence of such a delay, the party claiming the delay shall notify the other party, in writing, of the fact within ten (10) calendar days after the beginning of any such claimed delay.
- 33.9. CITY'S Consent or Approval. Whenever required under this Lease, CITY'S consent or approval shall mean the written consent or approval of CITY'S Mayor or his designee, unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made at the Mayor's discretion, unless otherwise expressly provided.
- 33.10. Consent by Either Party. Except as otherwise expressly provided in this Lease, consent to be given by either party may not be unreasonably withheld or delayed.
- 33.11. Lease Modifications. This Lease shall not be modified, altered, or amended unless the modification, alteration, or amendment is in writing and signed by the Parties and approved by the City Attorney.

- 33.12. Cost Recovery. CITY collects various fees to offset the administrative costs incurred for CITY staff services. CITY shall process each of LESSEE'S service requests upon receipt of LESSEE'S payment of the applicable fee. The fee schedule, which is on file at the Office of the City Clerk, may be updated from time to time in CITY'S sole discretion.
- 33.13. Survival. Any obligation under this Lease that requires a party's performance of that obligation after the expiration or earlier termination of this Lease shall survive such expiration or termination.
- 33.14. Headings and Captions. The section headings and captions used in this Lease shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. If the page numbers and/or section numbers in this Lease are not in consecutive order, the lack of consecutive numbering shall have no effect on the enforceability of this Lease.
- 33.15. Number and Gender. In this Lease, words in the singular number shall include the plural, and *vice versa*, as appropriate to the context. Words of either gender shall include the other gender.
- 33.16. IRS Form W-9. CITY agrees to provide LESSEE with a completed IRS Form W-9, or its equivalent, upon execution of this Lease.
- 33.17. California Public Records Act. CITY shall determine, in its sole discretion, whether information provided to CITY by LESSEE pursuant to this Lease is or is not a public record subject to disclosure under the California Public Records Act (CPRA). LESSEE shall hold CITY, its elected officials, officers and employees harmless for CITY's disclosures of any such information in response to a request for information under the CPRA.
- 33.18. Accessibility Assessment. In accordance with California Civil Code section 1938, CITY hereby states that the Site and/or the Premises have not been inspected by a Certified Access Specialist.

Further, pursuant to California Civil Code section 1938(e), CITY is required to state: "A Certified Access Specialist (CAsp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CAsp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CAsp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CAsp inspection, the payment of the fee for the CAsp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

- 33.19. Authority to Execute and Deliver Lease. Each individual executing this Lease on behalf of another person or legal entity represents and warrants that he or she is authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are

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 the State of California.

[Remainder of Page Intentionally Left Blank]

33.20. 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.

33.21. Exhibits Incorporated. All exhibits referenced in this Lease are incorporated into the Lease by this reference.

IN WITNESS WHEREOF, this Lease is executed by CITY and LESSEE, to be effective as of the Effective Date.

Date: 4/24/17

THE CITY OF SAN DIEGO, a California
municipal corporation

By: [Signature]
Name: Cybele L. Thompson
Title: Director, Real Estate Assets Department

Date: _____

Mobilitie Investments III, LLC
a Delaware limited liability company

By: [Signature]
Name: Christos Karmis
Title: President

Environmental Analysis Section Environmental Clearance:

CATEGORICAL EXEMPTION: 15301 (EXISTING FACILITIES) and 15303 (NEW CONSTRUCTION)

Date: April 24, 2017

BY: [Signature]
Name: Anna L. McPherson
Title: Senior Planner

APPROVED AS TO FORM:

Date: April 27th, 2017

MARA W. ELLIOTT, City Attorney

By: [Signature]
Name: Melissa Ables, Deputy City Attorney

Exhibit A:
Description of Site and Premises

CITY Site ID No.:

LESSEE Site No.: SD07118A

Location: 7540 Winterwood Lane, San Diego, CA 92126

Assessor's Parcel Number: 311-211-66-00

Legal Description: All that certain real property situated in the County of San Diego, State of California, described as follows:

Parcel A:

That portion of Section 35, Township 14 South, Range 3 West, San Bernardino Meridian, described as follows:

Beginning at a point on the West line of the Northeast quarter of said Section 35 that is North 0° 27' 22" East a distance of 329.44 feet along said West line from the Southwest corner of said Northeast quarter; Thence from said point of beginning North 0° 27' 22" East along said West line a distance of 150.00 feet to the Southwest corner of Lot 2878 of Mira Mesa Verde Unit No. 17, as shown on Map thereof No. 7048 filed in the office of the County Recorder of said County; Thence South 89° 14' 22" East along the Southerly line of said Mira Mesa Verde Unit No. 17 at a distance of 313.35 feet; Thence South 0° 27' 22" West a distance of 150.00 feet; Thence North 89° 14' 22" West a distance of 313.35 feet to the point of beginning.

Parcel B:

Lot 2878 of Mira Mesa Verde Unit No. 17 as shown on Map thereof No. 7048, recorded September 14, 1971, filed in the office of the County Recorder of San Diego County.

The Site consists of one (1) 60' Mono-pine tree with eight (8) 96" antennas mounted on the tree. The Site also includes a 11'x15'6" shelter which houses the cellular ground equipment, including four (4) outdoor cabinets.

Exhibit B

Site and Equipment Plans

[see following pages]

IF USING 11"X17" PLOT, DRAWINGS WILL BE HALF SCALE

CITY: SAN DIEGO
COUNTY: SAN DIEGO
JURISDICTION: CITY OF SAN DIEGO

IF USING 11"X17" PLOT, DRAWINGS WILL BE HALF SCALE

C-1



SITE PLAN

Stick Together
10009 VISTA SOMERITO PARKWAY
SUITE 206
SAN DIEGO, CA 92121



NATIONAL
ENGINEERING & CONSULTING, INC.
400 CONGRESS LANE, SUITE 200, FORT WORTH, TEXAS 76102
PHONE (817) 735-0001 FAX (817) 735-0002



smartlink
18001 VON KARMAN AVENUE
SUITE 510
IRVINE, CA 92612
PHONE: (949) 367-1268
FAX: (949) 367-1270

[illegible]

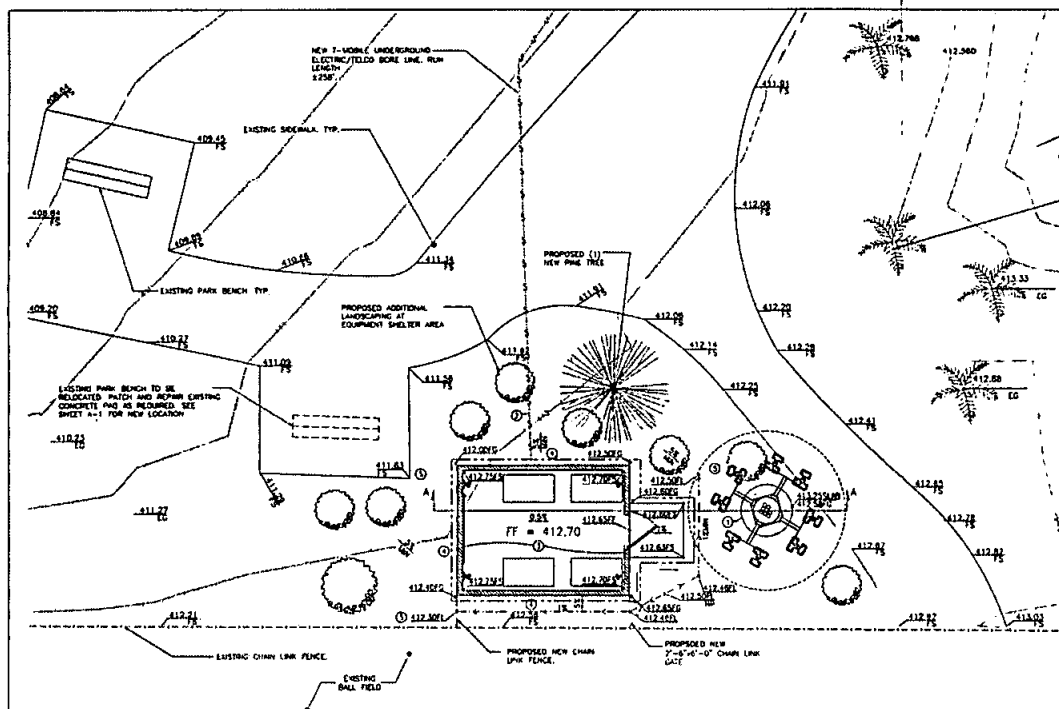
SD07118

7840 WINTERWOOD LANE
SAN DIEGO, CA 92126

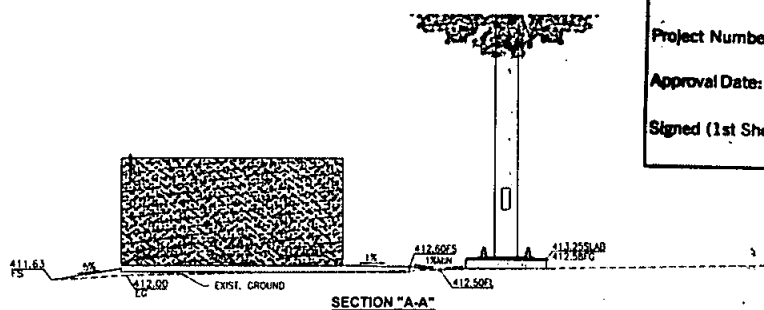


PRECISE GRADING PLAN

C-4



	CONSTRUCTION NOTES
①	CONSTRUCT MONO-PURGE PER ARCHITECTURAL AND STRUCTURAL PLAN
②	PROPOSED UTILITIES RUN PER ARCHITECTURAL AND ELECTRICAL PLAN
③	ENCLOSURE PER ARCHITECTURAL AND STRUCTURAL PLAN
④	CHASE 5/8" MIN AWAY FROM ENCLOSURE
⑤	JOIN EXISTING VERIFY ELEVATION PRIOR TO CONSTRUCTION



**CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES**

EXHIBIT "A"

Project Number:

Approval Date:

Signed (1st Sheet):



PRECISE GRADING PLAN

	SCALE:
	1"=8'

PLANS PREPARED BY: -



NATIONAL
ENGINEERING & CONSULTING INC.
21 ORCHARD LANE, FORTY, CA 94040
PHONE 940/414-0000 | FAX 940/414-0007

CONSULTANT: -



smartlink
16301 VON KARMAN AVENUE
SUITE 510
IRVING, CA 92612
PHONE: (848) 387-1886

[illegible]

SITE INFORMATION:

SD07118

WINTERWOOD PARK

7840 WINTERWOOD LANE
SAN DIEGO, CA 92126

SEAL:



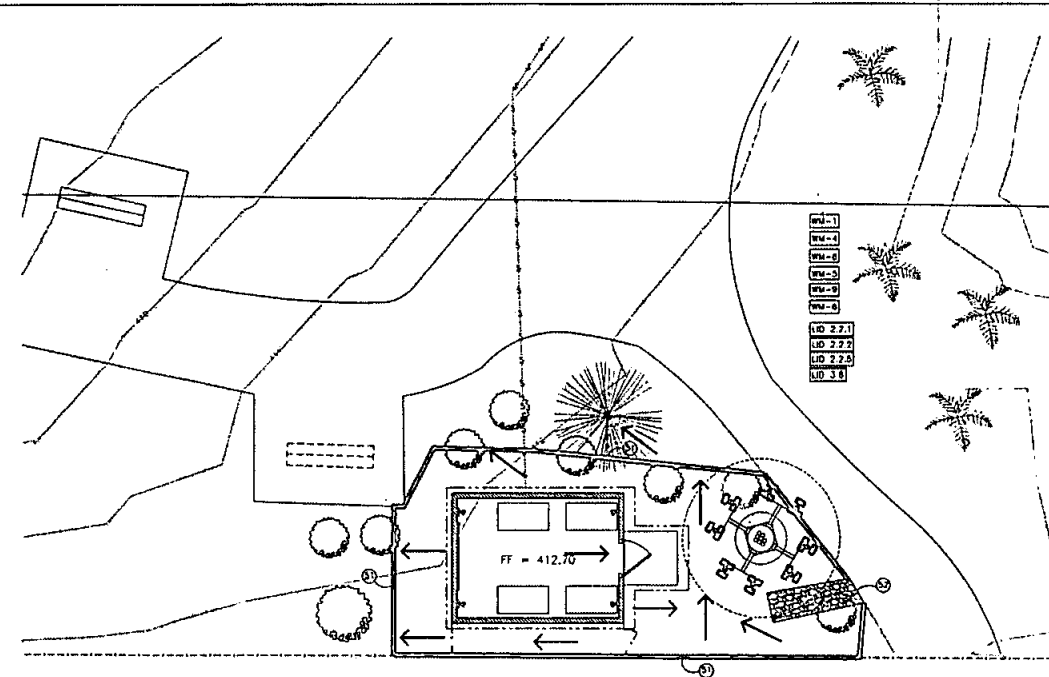
Attest

SHEET TITLE: -

EROSION CONTROL PLAN

SHEET NUMBER:

C-5



ANTICIPATED POLLUTANTS:

TRASH AND DEBRIS
OIL AND GREASE

MATERIAL & WASTE MANAGEMENT
CONTROL BMPs:

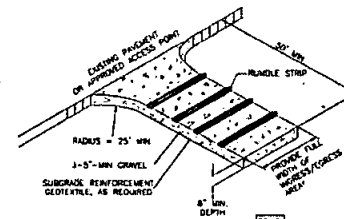
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|------|------------------------------|
| WM-1 | MATERIAL DELIVERY & STORAGE |
| WM-4 | SPILL PREVENTION AND CONTROL |
| WM-8 | CONCRETE WASTE MANAGEMENT |
| WM-5 | SOLID WASTE MANAGEMENT |
| WM-9 | SANITARY WASTE MANAGEMENT |
| WM-6 | HAZARDOUS WASTE MANAGEMENT |

TEMPORARY RUNOFF CONTROL BMPs:

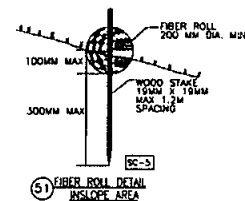
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|------|----------------------------------|
| SC-5 | FIBER ROLL |
| TC-1 | STABILIZED CONSTRUCTION ENTRANCE |

LOW IMPACT DEVELOPMENT BMPs:

- | | |
|----------|--|
| UD 2.2.1 | CONSERVATION OF NATURAL DRAINAGES, WITH DRAINED SOILS AND SIGNIFICANT VEGETATION |
| UD 2.2.2 | MINIMIZE DISTURBANCES TO NATURAL DRAINAGES |
| UD 2.2.3 | DRAIN RUNOFF FROM IMPERVIOUS SURFACES TO PERVIOUS AREAS |
| UD 3.2 | PERMEABLE PAVEMENT DESIGN |
| UD 3.8 | BUILDING DESIGN |



52 STABILIZED CONSTRUCTION
ENTRANCE DETAIL
N.T.S.



51 FIBER ROLL DATA
INSLOPE AREA

CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES

EXHIBIT "A"

Project Number:

Approval Date:

Signed (1st Sheet):

PRIVATE ENGINEER'S NOTICE
TO CONTRACTORS

THE CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE OWNER AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

CONSTRUCTION NOTES

- ⑤1 INSTALL FIBER ROLL PER DETAIL SHOWN HEREON OR AS APPROVED BY INSPECTOR
- ⑤2 STABILIZED CONSTRUCTION ENTRANCE PER DETAIL HEREON

LEGEND



STABILIZED ENTRANCE

EROSION CONTROL PLAN

	SCALE:	3
	1"=5'	

T-Mobile
Stick Together®
10500 VISTA SERRANO PARKWAY
SUITE 200
SAN DIEGO, CA 92121

PLANS PREPARED BY:
NATIONAL
ENGINEERING & CONSULTING, INC.
87 COLUMBIAN LANE, PORTCUT, CA 92068
PHONE: (619) 718-8880 FAX: (619) 718-8887

CONSULTANT:
smartlink
10301 VON KARMANN AVENUE
SUITE 110
IRVINE, CA 92612
PHONE: (949) 867-1100 FAX: (949) 867-1177

NO.	DATE	DESCRIPTION	BY
1	7/14/14	90% ZD'S	SA
2	8/14/14	CLIENT'S COMMENTS	SL
3	9/08/14	ZONING'S COMMENTS	SL
4	10/20/14	CLIENT REVISION	EVI
5	11/5/14	100% ZD'S	FS
6	12/09/15	CLIENT REVISION	EC
7	02/13/15	90% CD'S	AZ
8	02/19/15	100% CD'S	AZ
9	04/30/15	PC CORRECTIONS	EC
10	08/28/15	PC CORRECTIONS	DP
11	10/21/15	PC CORRECTIONS	AS

SITE INFORMATION:
SD07118
WINTERWOOD PARK
7840 WINTERWOOD LANE
SAN DIEGO, CA 92126

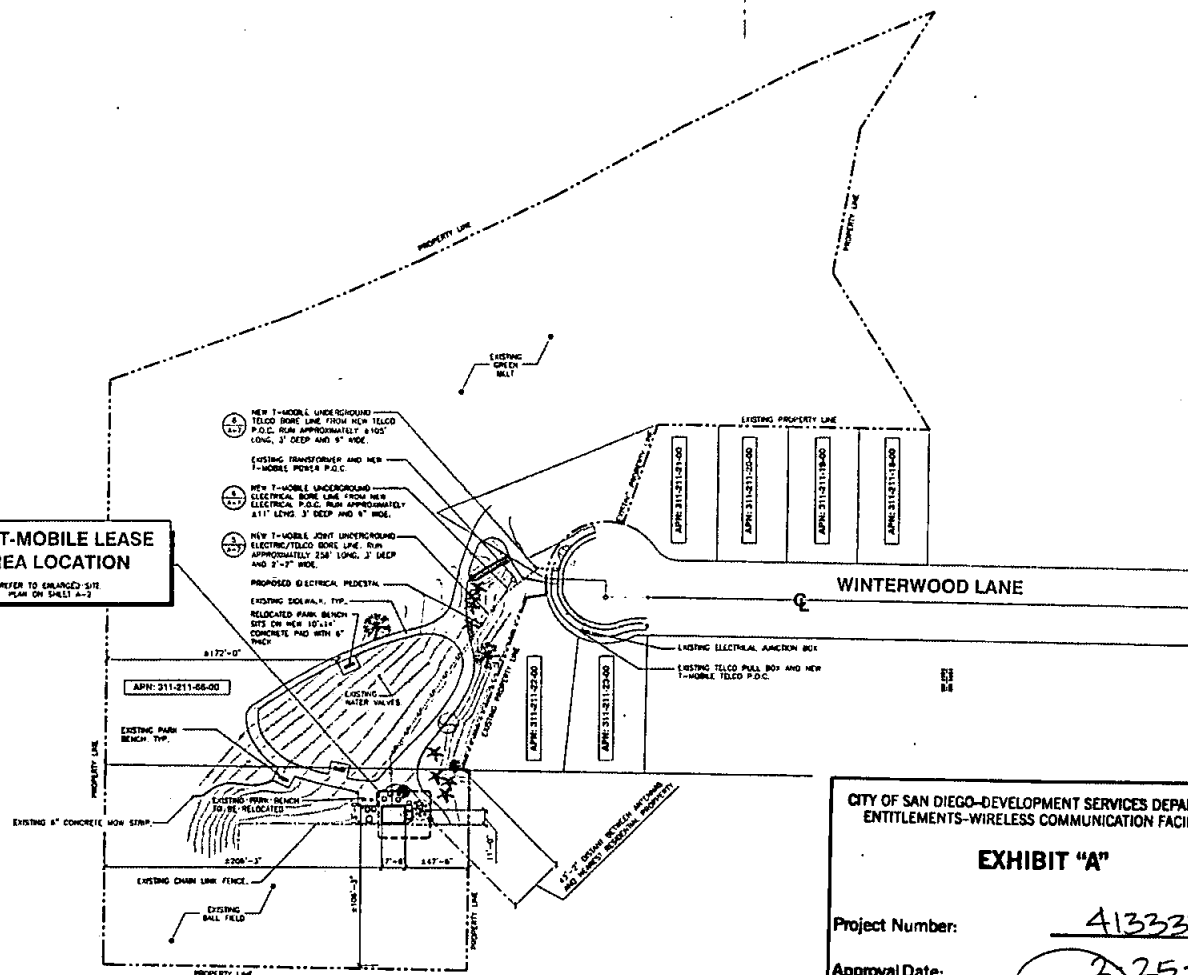
SEAL:

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
A-1

NEW T-MOBILE LEASE AREA LOCATION

REFER TO UNLANCED SITE
PLAN ON SHEET A-2



CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES

EXHIBIT "A"

Project Number:

413332

Approval Date:

2-25-16

Signed (1st Sheet):

[Signature]



SCALE: 1"=40'

SITE PLAN

Stick Together*

10000 VIA SORRENTO PARKWAY
SUITE 204
SAN DIEGO, CA 92121

PLANS PREPARED BY:



CONSULTANT:



smartlink

18301 VON KARMAN AVENUE
SUITE. 810
IRVINE, CA 92612
PHONE: (949) 367-1886
FAX: (949) 367-1275

NO.	DATE	DESCRIPTION	BY
1	7/14/14	90% ZO'S	S
2	8/14/14	CLIENT'S COMMENTS	S
3	9/08/14	ZOWING'S COMMENTS	S
4	10/20/14	CLIENT REVISION	E
5	11/5/14	100% ZO'S	S
6	12/09/15	CLIENT REVISION	E
7	02/13/15	90% CO'S	J
8	02/19/15	100% CO'S	A
9	04/30/15	PC CORRECTIONS	E
10	08/28/15	PC CORRECTIONS	D
11	10/21/15	PC CORRECTIONS	A

CARE INSURANCE:

SD07118

WINTERWOOD PARK

7540 WINTERWOOD LANE
SAN DIEGO, CA 92126

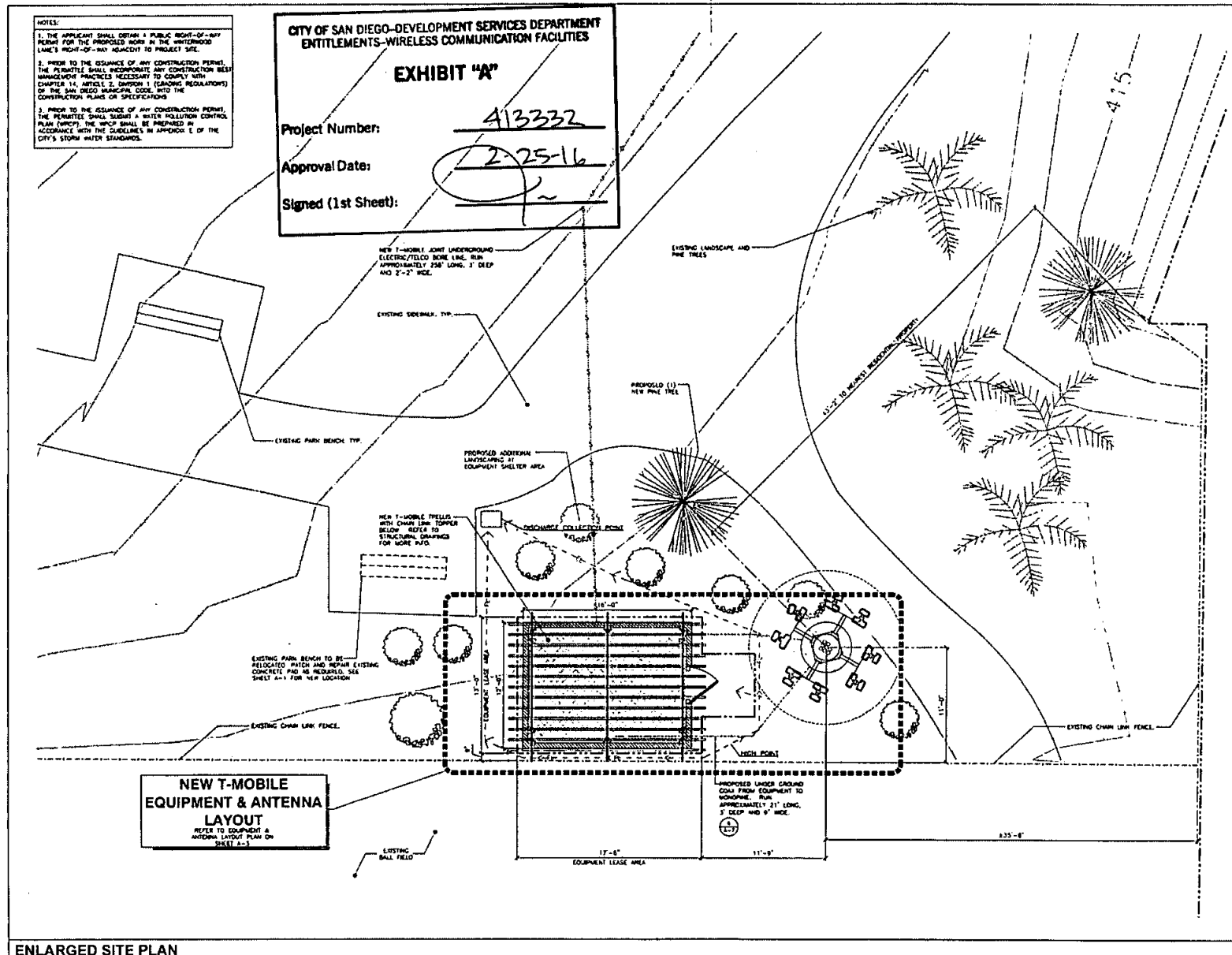
SEAN

SHEET TITLE:

**ENLARGED
SITE PLAN**

SHEET NUMBER:

A-2



PLANS PREPARED BY



CONSULTANT.



NO.	DATE:	DESCRIPTION:	BY:
1	7/14/14	90% ZO'S	S
2	8/14/14	CLIENT'S COMMENTS	S
3	9/08/14	ZONING'S COMMENTS	S
4	10/20/14	CLIENT REVISION	EV
5	11/5/14	100% ZO'S	P
6	12/09/15	CLIENT REVISION	A
7	02/13/15	90% CD'S	EV
8	02/19/15	100% CD'S	A
9	04/20/15	PC CORRECTIONS	EV
10	06/28/15	PC CORRECTIONS	DI
11	10/21/15	PC CORRECTIONS	A

SITE INFORMATION:

SD07118

WINTERWOOD PARK

7540 WINTERWOOD LANE
SAN DIEGO, CA 92126

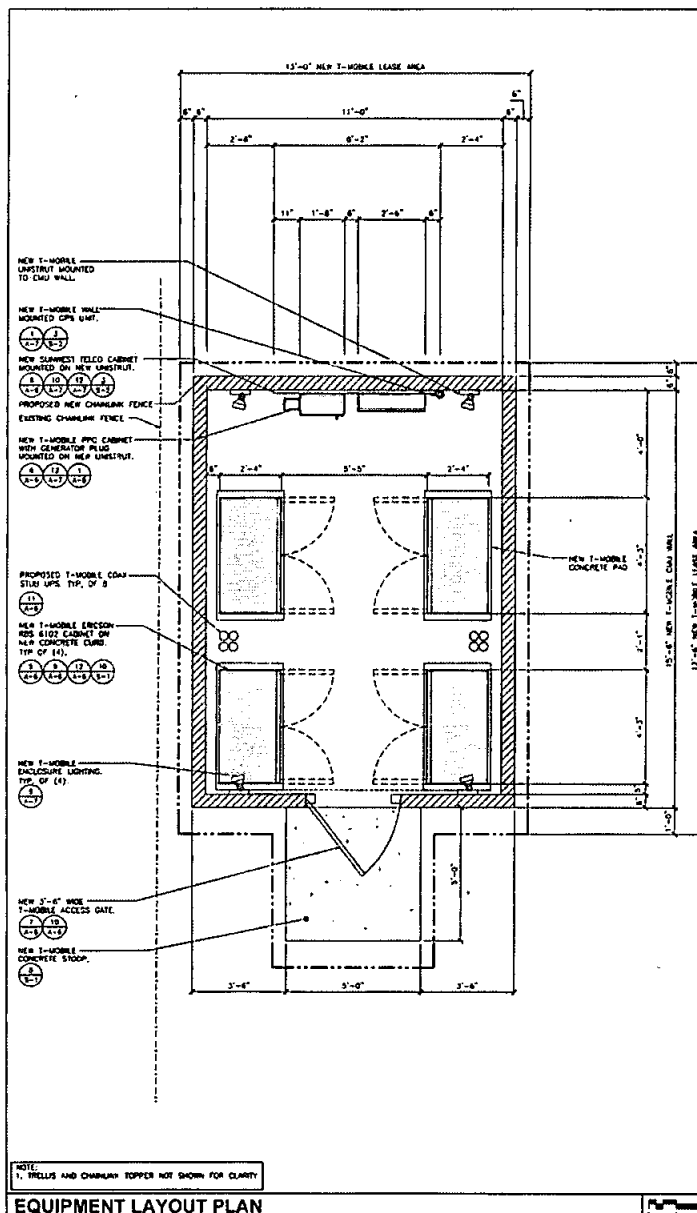
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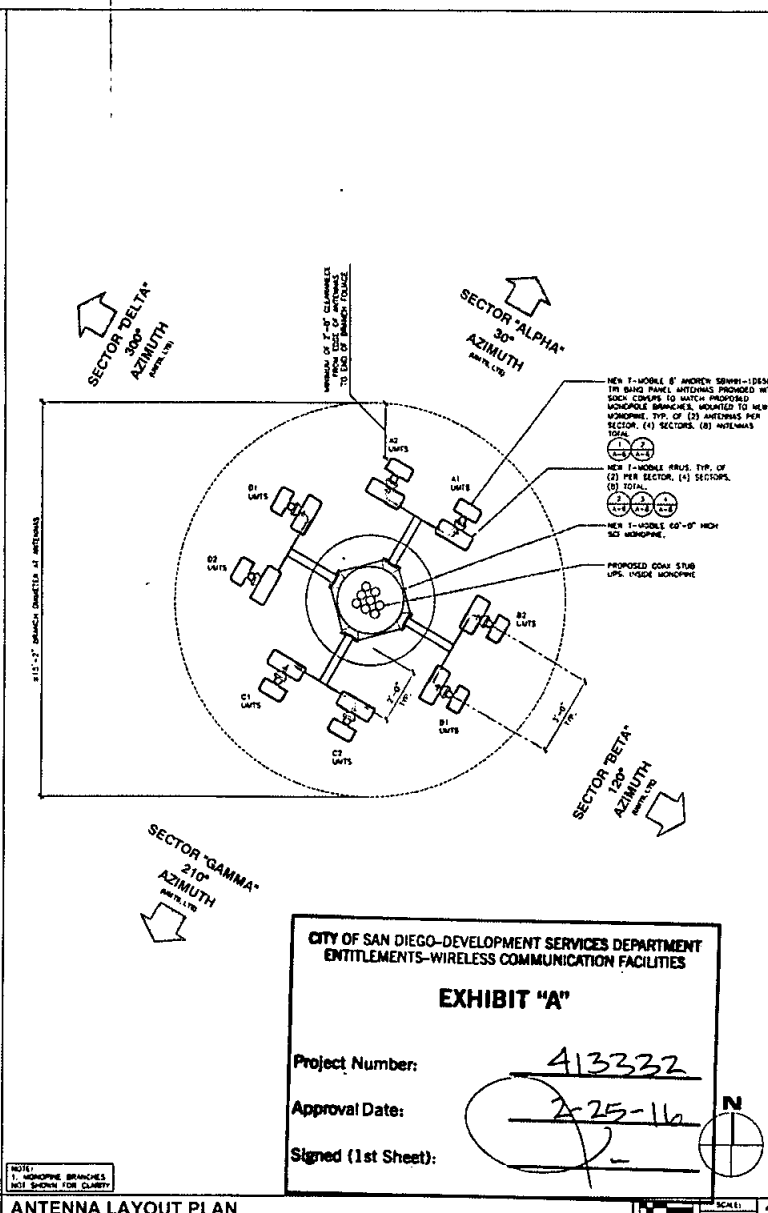
EQUIPMENT AND ANTENNA LAYOUT PLANS

SHEET NUMBER:

A-3



EQUIPMENT LAYOUT PLAN



ANTENNA LAYOUT PLAN

T-Mobile
Stick Together®
10500 VISTA SCORPION PARKWAY
SUITE 300
SAN DIEGO, CA 92121

PLANS PREPARED BY:

NATIONAL
ENGINEERING & CONSULTING, INC.
BY: CONRAD L. LARK, P.E., C.E., D.B.S.
PHONE: (619) 715-0000 FAX: (619) 715-0007

CONSULTANT:

smartlink
18001 VON KARMAN AVENUE
SUITE 810
IRVINE, CA 92618
PHONE: (949) 261-1100 FAX: (949) 261-1179

NO.	DATE	DESCRIPTION	BY
1	7/14/14	60X 20'S	SA
2	8/14/14	CLIENT'S COMMENTS	SL
3	9/08/14	ZONING'S COMMENTS	SL
4	10/20/14	CLIENT REVISION	EV
5	11/5/14	100X 20'S	FS
6	12/02/15	CLIENT REVISION	EC
7	02/13/15	90X 20'S	AZ
8	02/19/15	100X 20'S	AZ
9	04/30/15	PC CORRECTIONS	EC
10	08/28/15	PC CORRECTIONS	DP
11	10/21/15	PC CORRECTIONS	AS

SITE INFORMATION:

SD07118

WINTERWOOD PARK

7840 WINTERWOOD LANE
SAN DIEGO, CA 92126

SEAL:

SHEET TITLE:

ARCHITECTURAL
ELEVATIONS

SHEET NUMBER:

A-4

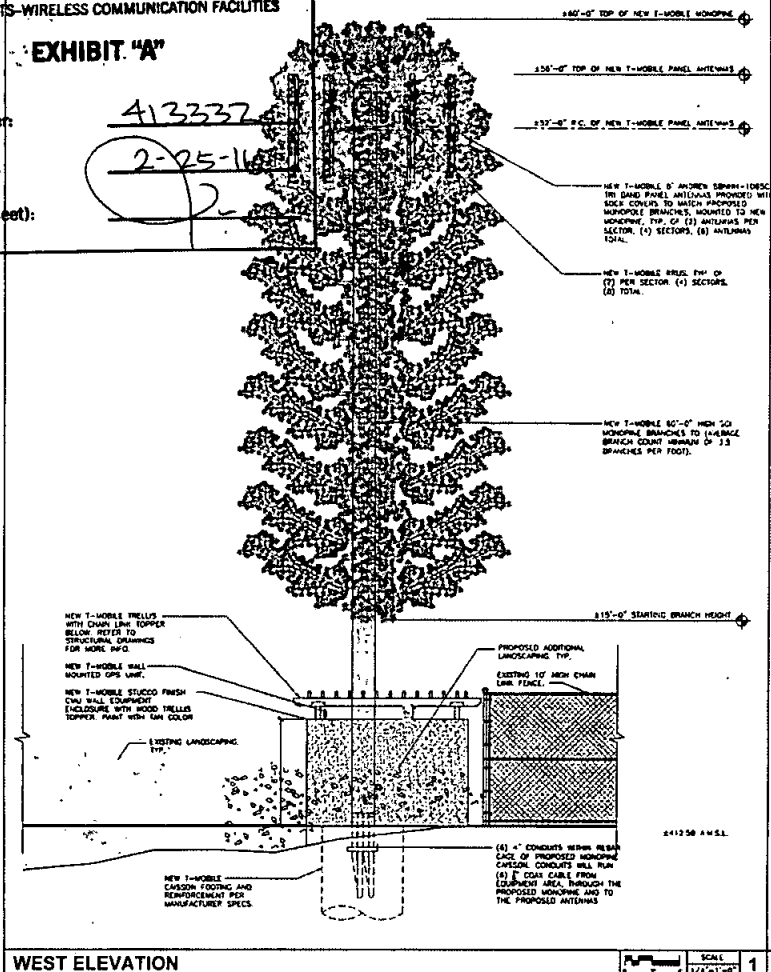
CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES

EXHIBIT "A"

Project Number: 413332

Approval Date: 2-25-16

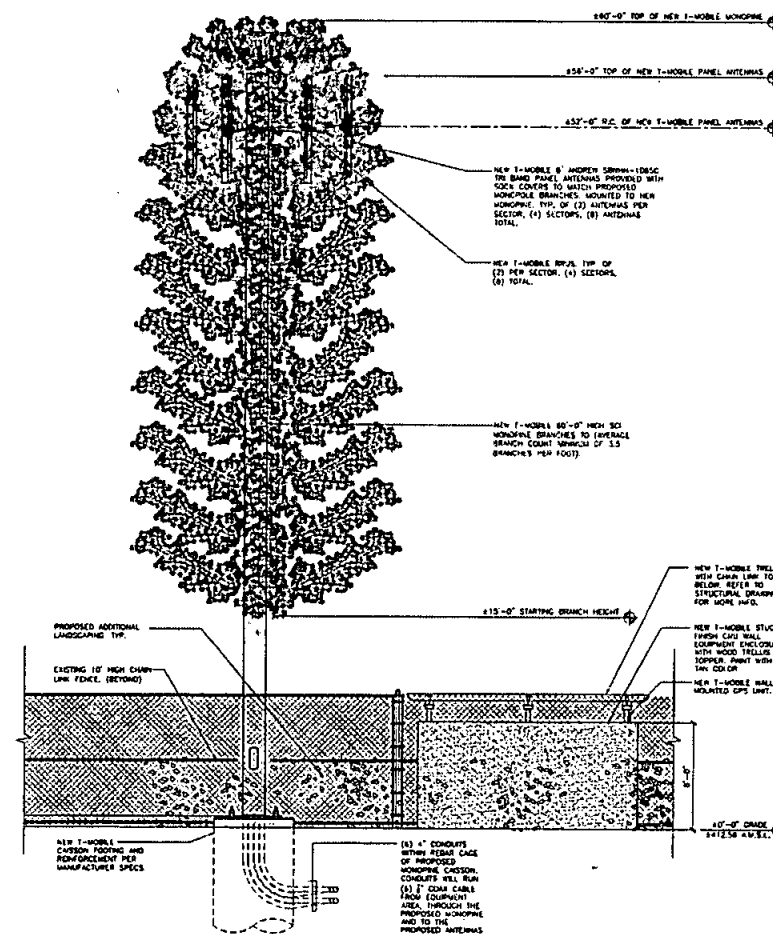
Signed (1st Sheet):



WEST ELEVATION

SCALE: 1/4"=1'-0"

1 NORTH ELEVATION



SCALE: 1/4"=1'-0"

2

T-Mobile
Stick Together®

10008 VISTA SONNETO PARKWAY
SUITE 200
SAN DIEGO, CA 92121

PLANS PREPARED BY:



CONSULTANT:



smartlink

10301 VICKI KAPLAN AVENUE
SUITE 810
IRVINE, CA 92618
PHONE: (949) 887-1888
FAX: (949) 387-1278

NO.	DATE	DESCRIPTION	BY:
1	7/14/14	90% CD'S	SA
2	8/14/14	CLIENT'S COMMENTS	SL
3	9/08/14	ZONING'S COMMENTS	SL
4	10/20/14	CLIENT REVISION	EVT
5	11/5/14	100% CD'S	FS
6	12/09/15	CLIENT REVISION	EC
7	02/13/15	90% CD'S	AZ
8	02/19/15	100% CD'S	AZ
9	04/30/15	PC CORRECTIONS	EC
10	08/28/15	PC CORRECTIONS	DP
11	10/21/15	PC CORRECTIONS	AS

SITE INFORMATION:

SD07118

WINTERWOOD PARK

7640 WINTERWOOD LANE
SAN DIEGO, CA 92126

REEL:

SHEET TITLE:

ARCHITECTURAL
ELEVATIONS

SHEET NUMBER:

A-5

CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES

EXHIBIT "A"

Project Number:

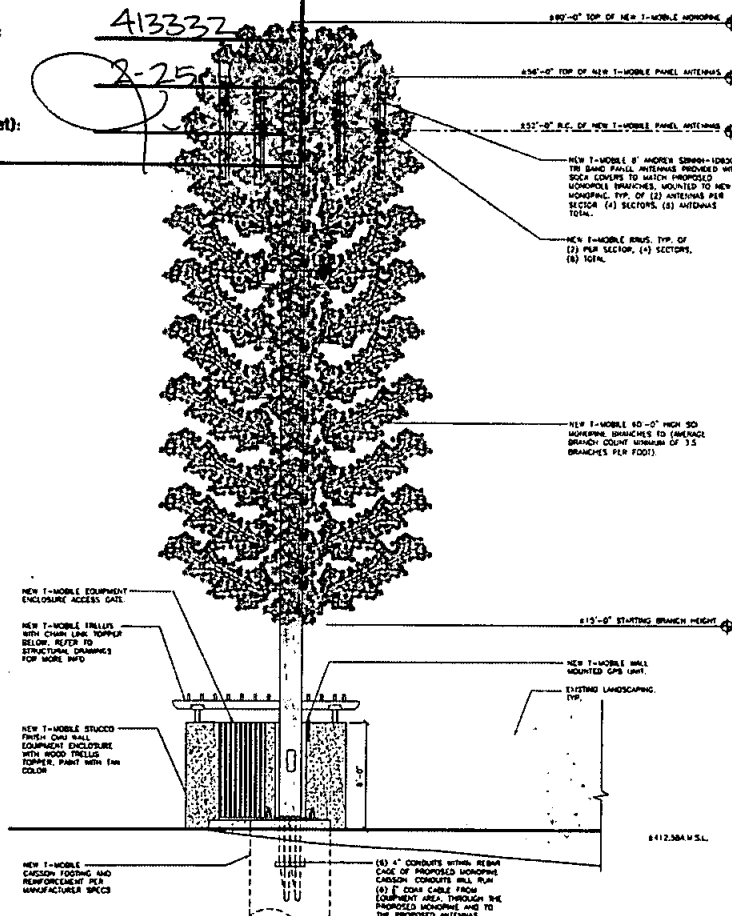
413332

Approval Date:

2-25-15

Signed (1st Sheet):

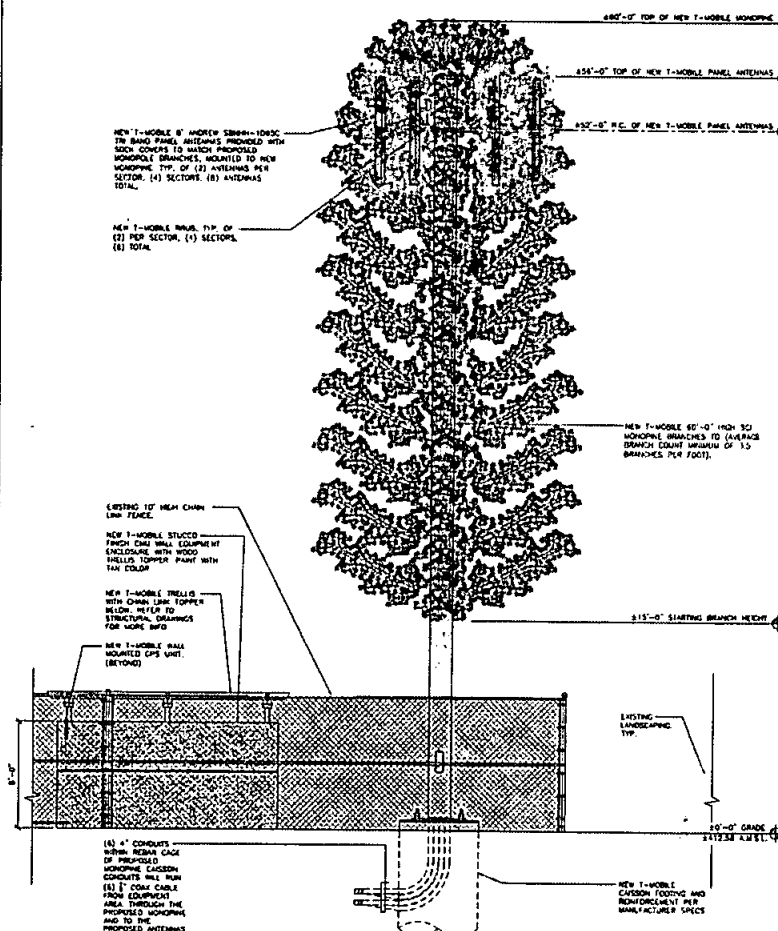
- NOTE:
1. BRANCHES TO EXTEND 24" PAST THE FACE OF THE ANTENNAS.
2. POLE MANUFACTURE HAS BEEN SELECTED AS "TCT".
3. MONOPHANE BRANCHES SHALL BE 3.5 BRANCH PER FT. MIN 150 BRANCHES TOTAL.



EAST ELEVATION

SCALE:
1/4"=1'-0"

- NOTE:
1. BRANCHES TO EXTEND 24" PAST THE FACE OF THE ANTENNAS.
2. POLE MANUFACTURE HAS BEEN SELECTED AS "TCT".
3. MONOPHANE BRANCHES SHALL BE 3.5 BRANCH PER FT. MIN 150 BRANCHES TOTAL.



SOUTH ELEVATION

SCALE:
1/4"=1'-0"



NATIONAL
ENGINEERING & CONSULTING, INC.
84 SINGHARD LANE, FORT COCKER, CA 94024
(415) 351-1000, (415) 351-1001, (415) 351-1002, (415) 351-1003



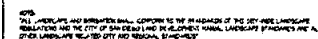
smartlink
16301 VON KARMAN AVENUE
SUITE, 910
IRVINE, CA 92612
PHONE: (949) 387-1288
FAX: (949) 382-1278

SD07118

7540 WINTERWOOD LANE
SAN DIEGO, CA 92121

PLANTING PLAN

L-1



NOTES:
BUDGETING AND ANNUAL BUDGETARILY CONTROLLED BUDGETING SYSTEM SHALL BE PROVIDED AS
REQUIRED FOR PROPER BUDGETING, REVENUE AND MAINTENANCE OF THE VESTIGATION IN A HEALTHY
AND VESTIGATION CONTROLLED THE FORM OF THE SYSTEM SHALL PROVIDE ASSISTANCE SUPPORT FOR THE
VESTIGATION REVENUE.

NOTE: ACTIVATION TYPE
THE ACTIVATION SYSTEM SHALL BE AN AUTOMATICALLY CONTROLLED LOW PRESSURE SPRAY SYSTEM
WITH AN AUTOMATIC RAIN SHUT-OFF DEVICE.

MAINTENANCE.
ALL RESERVED LANDSCAPE AREAS SHALL BE MAINTAINED BY:
FURNITURE & DECORATION

LANDSCAPE & EROSION AREAS IN THE PUBLIC REG. SHALL BE MAINTAINED BY:
 PERMITTEE OR OTHERS/STATE

THE LANDSCAPE MEANS SHALL BE MAINTAINED FREE OF STUMPS AND LITTER AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION EXCEPTED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY TREATED OR REPLACED FOR THE CONDITIONS OF THE PROJECT.

NOTE:
IF ANY UNDERGROUND WATER OR SEWAGE SYSTEMS ARE DAMAGED DURING CONSTRUCTION, THEY SHALL
BE REPAIRED AND NOT ABANDONED.

NOTE.

THE EXISTING IRRIGATION SYSTEM SHALL BE REPAIRED AND MODIFIED TO MEET THE NEW LANDSCAPE CONFIGURATION IN CONFORMANCE WITH THE CONSULTANT'S GUIDE TO PARK DESIGN AND DEVELOPMENT. INSTALLATION SHALL FOLLOW THE SAN DIEGO STANDARD DRAWINGS, STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (GREENBOOK) AND THE CITY OF SAN DIEGO SUPPLEMENT TO THE GREENBOOK. (HNTBBOOK-1)

[illegible]

ARCHITECT OR DEVELOPER SHALL PROVIDE A MEMORANDUM, EIA, TEST AND INSURE FORM AND PLANS RECOMMENDATIONS FOR INSPECTIONS. L&B SHALL BE RESPONSIBLE FOR THE ARCHITECT SUPPLIER SENSING ARCHITECT SHALL BE USED PROOF OF SENSING TEST AND ARCHITECTS AND SHALL BE PROVIDED TO THE OWNER DEVELOPER ARCHITECT AND L&B.

PROTECT ALL EXISTING LANDSCAPE FROM DAMAGE DURING CONSTRUCTION. ANY AREAS DAMAGED MUST BE RESTORED TO THEIR ORIGINAL CONDITION AFTER CONSTRUCTION COMPLETION.

CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES

EXHIBIT "A"

Project Number:

Approval Date:

Signed (1st Sheet):



T-Mobile

SD07118A
WINTERWOOD PARK

7540 WINTERWOOD LANE SAN DIEGO CA 92126

ATTACHMENT 13

CITY OF SAN DIEGO-DEVELOPMENT SERVICES DEPARTMENT
ENTITLEMENTS-WIRELESS COMMUNICATION FACILITIES

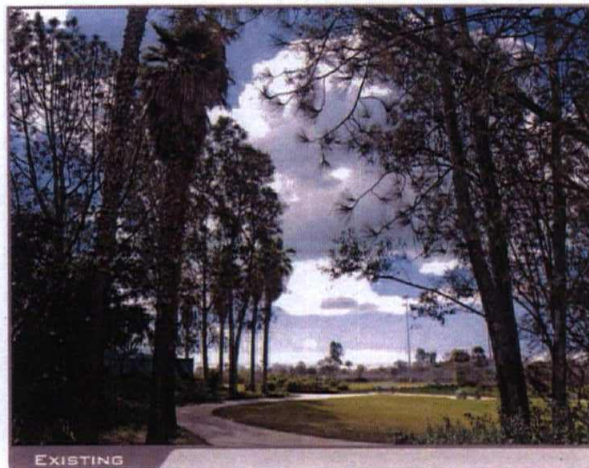
EXHIBIT "A"

ARTISTIC
engineering

AEsim.com
877.9AE.sims

Project Number: 413332
Approval Date: 2-25-16
Signed (1st Sheet): [Signature]

VIEW 1



ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

T-Mobile

SD07118A
WINTERWOOD PARK

7540 WINTERWOOD LANE SAN DIEGO CA 92126

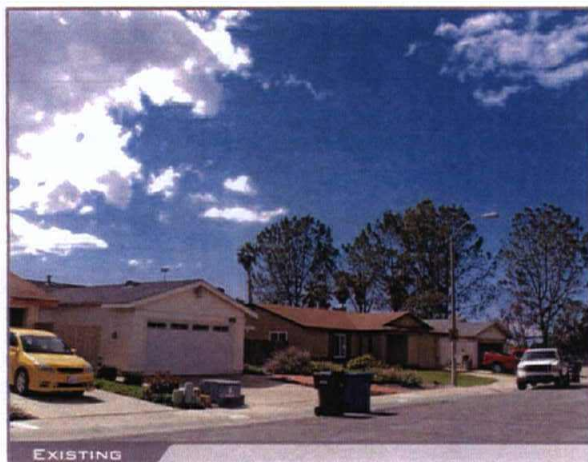
ARTISTIC
 engineering
 AEsim.com
 877.9AE.sims

VIEW 2

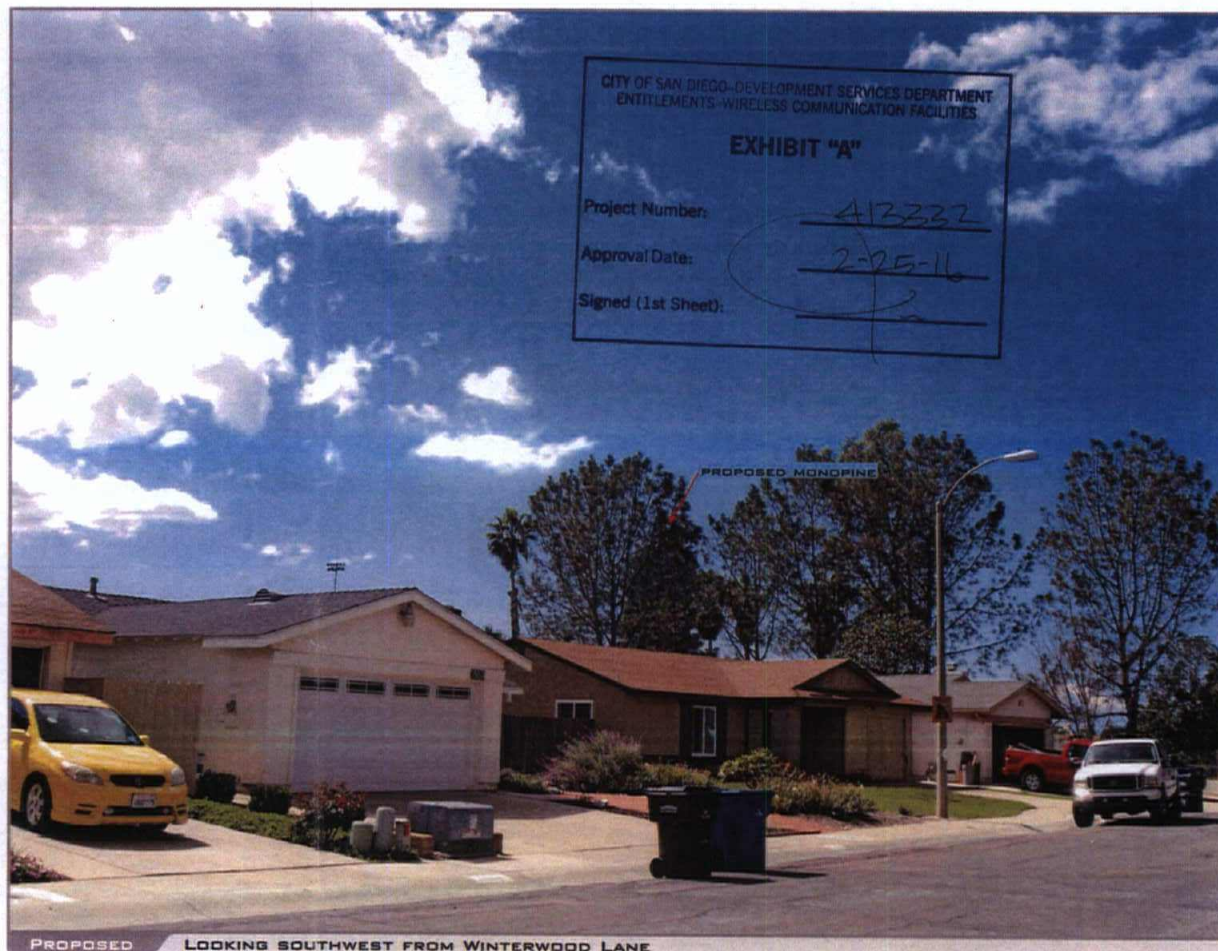


LOCATION

©2015 Google Maps



EXISTING



PROPOSED

LOOKING SOUTHWEST FROM WINTERWOOD LANE

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.



SD07118A WINTERWOOD PARK

7540 WINTERWOOD LANE SAN DIEGO CA 92126

ATTACHMENT 13



VIEW 3



LOCATION

©2015 Google Maps



EXISTING



PROPOSED LOOKING EAST FROM PARK

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

265

NOTICE OF EXEMPTION

(Check one or both)

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 501
SAN DIEGO, CA 92101

 OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

FILED
Ernest J. Dronenburg, Jr., Recorder County Clerk

PROJECT TITLE/NO.: T-MOBILE WINTERWOOD PARK/ 413332

MAR 23 2016
JISIP

PROJECT LOCATION-SPECIFIC: 5740 Winterwood Lane, San Diego, California 92126

BY
DEPUTY

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: Conditional Use Permit and Neighborhood Development Permit to construct, operate, and maintain a wireless communication facility that includes the following: Installation of one (1) new 60'-0" monopine, one (1) CMU enclosure with chain link cover, one (1) 2'-6" x 6'-0" chain link gate, eight (8) new panel antennas with antenna socks, one (1) new RBS 6102 cabinet, eight (8) new RRU's and associated landscaping. This project also proposes relocating an existing park bench to a new location across the park. Project implementation will also include a Right of Entry Permit. The project site is located at 7540 Winterwood Lane. Furthermore, the project is located within the OP-1-1 zone, the Mira Mesa Community Plan and the MCAS Miramar Field Airport Land Use Compatibility Plan (ALUCP), Airport Influence Area- Review Area 2, as well as FAA Part 77 Noticing Area.

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: SMARTLINK, 3580 ARNOLD AVENUE, SAN DIEGO CALIFORNIA 92104, JERROD PLOOF (858)344-4444

FILED IN THE OFFICE OF THE COUNTY CLERK

EXEMPT STATUS: (CHECK ONE)

- () MINISTERIAL: (SEC. 21080 (b) (1); 15268)
() DECLARED EMERGENCY: (SEC. 21080 (b) (3); 15269 (a))
() EMERGENCY PROJECT: (SEC. 21080 (b) (4); 15269 (b) (c))
(X) CATEGORICAL EXEMPTION: 15303 (New Construction)
() STATUTORY EXEMPTIONS:

San Diego County on MAR 23 2016
Posted MAR 23 2016 Removed APR 27 2016
Returned to agency on APR 27 2016
Deputy JISIP

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an environmental review which determined the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The project would not result in any significant environmental impacts. The project meets the criteria set forth in CEQA Section 15303 which allows for installation of small new equipment and facilities for structures not exceeding 2,500 square feet as well as accessory structures. Furthermore, the exceptions listed in 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Morgan Dresser

TELEPHONE: (619)446-5404

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
() YES () NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA.


SIGNATURE/TITLE

1/6/2016
DATE

CHECK ONE:

- () SIGNED BY LEAD AGENCY
() SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

ORIGINAL



State of California—Natural Resources Agency
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
2016 ENVIRONMENTAL FILING FEE CASH RECEIPT

RECEIPT#
SD2016 0265
STATE CLEARING HOUSE # (if applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT			DATE 03/23/2016
COUNTY/STATE AGENCY OF FILING San Diego			DOCUMENT NUMBER *20160265*
PROJECT TITLE T-MOBILE WINTERWOOD PARK/ 413332			
PROJECT APPLICANT NAME SMARTLINK			PHONE NUMBER (858) 344-4444
PROJECT APPLICANT ADDRESS 3580 ARNOLD AVENUE	CITY SAN DIEGO	STATE CA	ZIP CODE 92104

PROJECT APPLICANT (Check appropriate box):

☐ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☒ Private Entity

CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR)	\$3,070.00	\$	
☐ Mitigated/Negative Declaration (MND)(ND)	\$2,210.25	\$	
☐ Application Fee Water Diversion (State Water Resources Control Board only)	\$850.00	\$	
☐ Projects Subject to Certified Regulatory Programs (CRP)	\$1,043.75	\$	
☒ County Administrative Fee	\$50.00	\$	\$50.00
☐ Project that is exempt from fees			
☒ Notice of Exemption (attach)			
☐ CDFW No Effect Determination (attach)			
☐ Other		\$	

PAYMENT METHOD:

☐ Cash ☐ Credit ☒ Check ☐ Other 3179640

TOTAL RECEIVED \$ \$50.00

SIGNATURE

X

PRINTED NAME AND TITLE

JOSEPH ISIP

Deputy



ORIGINAL - PROJECT APPLICANT

COPY - CDFW/ASB

COPY - LEAD AGENCY

COPY - COUNTY CLERK

DFG 753.5a (Rev. 11/14)

Exhibit C

Memorandum of Lease Form

Recording Requested By and
When Recorded Return To:

APN# 311-211-66-00
Site #SD07118A

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is effective as of _____, 2017 (the Effective Date”).

1. THE CITY OF SAN DIEGO, a California municipal corporation (“CITY”), with an office at 1200 Third Avenue, M.S. 51A, San Diego, CA 92101-4155, and **Mobilitie Investments III, LLC, a Delaware limited liability company** (“LESSEE”), with an office AT 2220 University Drive, Newport Beach, CA 92660, entered into that certain CITY OF SAN DIEGO TELECOMMUNICATIONS LEASE (“Lease”) dated _____, 2017, for the purpose of installing, operating, and maintaining a wireless communication facility and other improvements as set forth in the Lease.
2. The term of the Lease is Ten (10) years, commencing _____, 2017, and terminating _____, 2027.
3. The land which is the subject of the Lease is described in attached Exhibit “A.” The portion of the land being leased to LESSEE is set forth in the Lease.

IN WITNESS WHEREOF, this Memorandum of Lease is executed to be effective as of the Effective Date:

CITY:

LESSEE:

THE CITY OF SAN DIEGO, a
California municipal corporation

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

*APPROVED AS TO FORM: MARA W.
ELLIOTT, CITY ATTORNEY*

By: _____

Name: _____

Title: _____

Exhibit D

Interference Protection Requirements

- a. Interference. Prior to the Effective Date or at any time 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 General Services Department, Communications Division. CITY is not responsible for any omitted data provided for the purpose of creating the Report. The Report shall be provided to CITY'S General Services Department, Communications Division ("GSDCD"), Attention: 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) calendar 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 GSDCD 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 GSDCD 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

Should an interference problem occur at the Site or in the nearby surrounding area as a result of LESSEE'S newly installed, retuned, or modified Communications Equipment, LESSEE shall initiate mutually agreeable actions among the affected parties to mitigate or resolve the interference problem. CITY may recognize the right of prior authorized permittees/lessees/users and withhold consent 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 consent and LESSEE waives any claim for expense or loss which LESSEE might incur as a result of CITY withholding consent.

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

- 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 (3) 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. Should CITY determine 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 General Services Department, Communications Division ("GSDCD") 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) calendar days before the change.
- m. Access: For access to the site, contact the GSDCD 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 twenty-four (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 GSDCD prior to any installation work.

Exhibit F

Emergency Maintenance Procedures

If LESSEE discovers that any of the Communications Equipment is damaged, LESSEE shall immediately notify **CITY'S Station 38 at (619) 527-7660**.

If CITY discovers that any of the Communications Equipment is damaged, CITY shall immediately notify **LESSEE'S Network Operation Call Center at (949) 515-1500**.

CITY may require any replacement Communications Equipment to be relocated, as provided for in this Lease.

If LESSEE'S Communications Equipment causes any interference to CITY'S telecommunications equipment and/or system, CITY may require such Communications Equipment to be removed permanently and replaced at another location, as provided for in this Lease.

LESSEE shall not unreasonably interfere with pedestrian or vehicle traffic while installing or maintaining its Communications Equipment.

If a party changes its emergency contact telephone information, that party shall immediately notify the other party of the new contact information at the telephone number provided above, and, within ten (10) calendar days, provide the other party with written notice of the new contact information, in accordance with this Lease.

Exhibit G
Park Maintenance Standards – Effective July 1, 2012

Park Maintenance Task	Standard of Care (90% of Time)
1. Maintain Turf	
a. Mowing	Weekly
b. Edging	Weekly
c. Sweeping	Weekly (Flexible)
d. Fertilization	None
e. Aerification	Six Times Annually
f. Renovation/Restoration	As-Needed
2. Pick-up Trash	Pick up trash daily by 10:00 a.m., plus additional pick-ups in high-use areas or during special events.
3. Maintain Planters/Shrub and Flower Beds/Groundcover	
a. Edging	Weekly
b. Mulching, Replacing Plants, Hedging	Semi-Annually
c. Pruning	As-Needed
4. Maintain Trees and Park Forest System	Respond to safety hazards within two working days. Respond to non-safety related issues within 20 working days.
a. Fertilizing	Semi-Annually
b. Planting, Trimming, Pruning, Skirting, Removing	As-Needed
5. Maintain Hardscape – Sweeping	Weekly
6. Control Pests	
a. Landscape Plant Pests	For landscape pests, respond within 14 working days of service request received by Citywide Pesticide Crew
b. Animal Pests	As Needed
7. Remove Graffiti	Removal within 2 working days
8. Repair Irrigation	Fix within 7 working days of service request received by Citywide Irrigation Crew
9. Conduct Playground Inspection and Repair	Inspect all play equipment daily in the morning
a. Identify safety hazards	Lock off hazardous play equipment upon identification of hazard
b. Respond to safety hazards – emergency	Respond immediately
c. Respond to potential safety hazards – non-emergency	Respond to potential safety hazards within two days.

d. Respond to non-safety related issues	Respond to non-safety related issues within 14 working days.
10. Maintain Ballfields and Infields	As-Needed
11. Provide Indoor and Outdoor Activity Support	As-Needed
12. Perform Routine Preventative Equipment and Tool Maintenance	Weekly
13. Repair Small/Minor Equipment	Fix within 14 working days of service request received by Citywide Maintenance Repair Facility Mechanics
14. Install, Inspect, Clean and Repair Site Furnishings	Daily
15. Perform Custodial/Maintenance Activities	Daily
16. Clean Outdoor Restrooms	
a. Balboa Park	Clean all outdoor restrooms by 10:00 a.m.
b. Community/Neighborhood Parks	Clean all outdoor restrooms by 10:00 a.m.
c. Mission Bay Park	Clean all outdoor restrooms by 10:00 a.m.
d. Pools	Clean restrooms and locker rooms twice a day, once before opening and again during the day
17. Conduct Site Safety Checks	Daily
18. Respond in the Event of an Emergency	As-Needed
19. Serve our Customers	As-Needed
20. Train Staff	As mandated by regulatory agencies
21. Perform Weed Abatement	As Needed
22. Maintain Aquatic Features (fountains and pools)	
a. Fountains	Test fountains daily to ensure water quality meets County Department of Health standards
b. Pools	Test pools hourly during operational hours to ensure water quality meets County Department of Health standards

The proposed Urban Runoff Management Plan would require additional park maintenance activities, such as:

Storm drain inspection:

- o Inspect the storm drain system before and after rainy season - January 31 and September 30
- o Ensure Special Event permittee has left the area clean and there was no evidence of any pollutant discharge for each special event (75 people or more) staff supervisor must sign off on permit regarding the inspection

Storm drains (catch basins) must be inspected and cleaned at least twice annually if needed

Parking lots must be swept to pollutant free at least once annually (or by each inspection date if needed)

Storm water general refresher training (sponsored by Storm Water Division) and activity-specific training (tailgates by Department supervisors) is required annually Storm water will conduct random e-tests to measure general knowledge of staff

All permittees and contractors will be issued General Development Plans (maps of the areas they are permitting/working) with storm drains indicated, as well as the relevant Department BMP's and good housekeeping procedures.

The Department has a 90% threshold for each of these park maintenance standards due to issues such as inclement weather, staff shortages, and emergencies.

DOC# 2016-0120346



Mar 18, 2016 10:41 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$66.00

PAGES: 18

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24005682

CONDITIONAL USE PERMIT NO. 1590980
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 1590979
T-MOBILE WINTERWOOD PARK PROJECT NO. 413332
PLANNING COMMISSION

This Conditional Use Permit No. 1590980 and Neighborhood Development Permit No. 1590979 is granted by the Planning Commission of the City of San Diego to the **City of San Diego**, Owner, and **T-Mobile USA**, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0301, 126.0402, 131.0222, and 141.0420. The site is located at 7540 Winterwood Lane (Winterwood Park) in the OP-1-1 zone of the Mira Mesa Community Plan. The project site is legally described as:

Parcel A: That portion of Section 35, Township 14 South, Range 3 West, San Bernardino Meridian, described as follows: Beginning at a point on the West line of the Northeast quarter of said Section 35 that is North 0° 27' 22" East a distance of 329.44 feet along said West line from the Southwest corner of said Northeast quarter; Thence from said point of beginning North 0° 27' 22" East along said West line a distance of 150.00 feet to the Southwest corner of Lot 2878 of Mira Mesa Verde Unit No. 17, as shown on Map thereof No. 7048 filed in the office of the County Recorder of said County; Thence South 89° 14' 22" East along the Southerly line of said Mira Mesa Verde Unit No. 17 at a distance of 313.35 feet; Thence South 0° 27' 22" West a distance of 150.00 feet; Thence North 89° 14' 22" West a distance of 313.35 feet to the point of beginning.

Parcel B: Lot 2878 of Mira Mesa Verde Unit No. 17 as shown on Map thereof No. 7048, recorded September 14, 1971, filed in the office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to install a new Wireless Communication Facility described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 25, 2016, on file in the Development Services Department.

The project shall include:

- a. A Wireless Communication Facility (WCF) that consists of a 60-foot tall monopine tree concealing eight (8) antennas and eight (8) Remote Radio Units.
- b. A total of four (4) ground mounted equipment cabinets and two (2) wall mounted cabinets concealed inside a 208-square foot Concrete Masonry Unit (CMU) wall with a trellis roof and a chain link topper for security. The tan color CMU wall shall also be coated with anti-graffiti paint.
- c. The 60-foot monopine tree shall maintain 3.5 branches per foot for a total of 158 branches at all times. The starting branch height shall be 15 feet.
- d. Landscaping (planting, irrigation and landscape related improvements).
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by **March 10, 2019**.
2. This approval and corresponding use of this site shall **expire on March 10, 2026**. Upon expiration of this approval, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this permit unless the applicant of record files a new application for a facility which will be subject to compliance with all regulations in effect at the time.
3. No later than ninety (90) days prior to the expiration of this approval, the Owner/Permittee may submit a new application to the Development Services Department for consideration with review and a decision by the appropriate decision maker at that time. Failure to submit prior to the deadline will be cause for enforcement for noncompliance, which may include penalties and fines.
4. Under no circumstances, does approval of this permit authorize the Owner/Permittee to utilize this site for WCF purposes beyond the permit expiration date. Use of this permit approval beyond the expiration date of this permit is prohibited.

5. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

6. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

7. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

8. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

9. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

10. The Permittee shall secure all necessary building permits. The Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

11. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

12. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de

novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

13. The Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Permittee.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit, the Permittee shall obtain a Public Right-of-Way permit for the proposed work in the Winterwood Lane's Right-of-Way.

15. Prior to the issuance of any construction permit, the Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

16. Prior to the issuance of any construction permit the Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

PARK & RECREATION REQUIREMENTS:

17. The WCF requires the installation of the following landscaping: one 36-inch box Pinus Eldarica, eighteen 5-gallon Arctostaphylos (Sunset Manzanita), fifteen 15-gallon Mahonia Aquifolium (Mahonia) and Baccharis Pillularis. The proposed landscape species may be substituted if authorized by the Park & Recreation Department.

18. The Permittee shall ensure that construction plans are reviewed and approved by the Park & Recreation Department prior to building permit issuance.

19. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit 'A' Landscape Development Plan.

20. Prior to issuance of any Certificate of Occupancy or activation of WCF, it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections.

21. All required landscape shall be maintained by the Permittee in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

22. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced by the Permittee in kind and equivalent size per the approved documents to the satisfaction of the Park & Recreation Department and the Development Services Department within 30 days of damage or Certificate of Occupancy or a Final Landscape Inspection.

23. An existing park bench shall be relocated to the satisfaction of the Park & Recreation Department. The existing park bench area shall be patched and the concrete pad shall be repaired as required to the satisfaction of the Park & Recreation Department.

PLANNING/DESIGN REQUIREMENTS:

24. This approval permits eight (8) antennas with the following dimensions: 96.4" by 11.9" by 7.1".

25. The WCF shall conform to the approved construction plans.

26. Photosimulations shall be printed on the construction plans.

27. The Permittee shall install and maintain appropriate warning signage on the WCF as required by State and Federal regulations. The Permittee shall be responsible for complying with all State and Federal regulations.

28. The accuracy and validity of the Radio Frequency Compliance Report, submitted by the Permittee, shall be assured while the WCF is in operation.

29. All facilities and related equipment shall be maintained in good working order and free from trash, debris, graffiti and designed to discourage vandalism. Any damaged equipment shall be repaired or replaced within thirty (30) calendar days of notification by the City of San Diego.

30. No exposed pipes or mounting apparatus absent antennas shall be present at any time on the monopine tree. Mounting pipes shall not be longer than the antennas.

31. Permittee must obtain approval from the Development Services Department for the tree manufacturer prior to bid selection.
32. All proposed hand-holes shall be covered with bark material to match the monopine tree trunk to the satisfaction of the Development Services Department.
33. All coaxial conduits shall be routed up through the caisson and into the monopine tree to the satisfaction of the Development Services Department. "Doghouse" cable housings are not permitted.
34. In order to avoid an 8-foot single vertical plane, branches from the monopine tree shall extend a minimum of 24-inches beyond the length of each proposed antenna and must be spread out evenly for a realistic tree appearance to the satisfaction of the Development Services Department.
35. All exposed cables, brackets and supports shall be painted to match the monopine tree to the satisfaction of the Development Services Department.
36. Antenna socks (designed to match the monopine tree) fully covering the front and back of the antennas (and any other components) shall be used.
37. The applicant shall provide color samples of the monopine tree branches and bark prior to Building Permit issuance. This is to ensure that the proposed components integrate with the surrounding landscape. Staff will pre-approve the color sample prior to Building Permit issuance. The exact samples shall be used during the FINAL INSPECTION. The color approved by Planning Staff must be identical to the as-built monopine tree.
38. The Permittee shall place appropriate signage on the WCF as required by CAL-OSHA/FCC to the satisfaction of the Development Services Department. The Permittee shall be responsible for complying with all State and Federal regulations, as applicable.
39. Any future modifications to the antennas must be approved by Development Services. The Permittee shall provide evidence demonstrating compliance with Federal standards for radio frequency emissions in accordance with the Telecommunications Act of 1996 and any subsequent amendments.
40. The Permittee shall notify the City within 30 days of the sale or transfer of this site to any other provider or if the site is no longer operational, in which case, the removal and the restoration of this site to its original condition shall be required.
41. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Please note that a **Telecom Planning Inspection Issue** will be placed on the project prior to Final Clearance from the City's Building Inspector to ensure compliance with the approved plans and associated conditions. Prior to calling for your Final Inspection from your building inspection official, please contact the Project Manager listed below at (619) 687-5984 to schedule an inspection of the completed facility. Please schedule this administrative inspection at least five working days ahead of the requested Final Inspection date.
- Per LDC §59.5.0404 Construction Noise (a), It shall be unlawful for any person, between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on legal holidays as specified in Section 21.04 of the San Diego Municipal Code, with exception of Columbus Day and Washington's Birthday, or on Sundays, to erect, construct, demolish, excavate for, alter or repair any building or structure in such a manner as to create disturbing, excessive or offensive noise unless a permit has been applied for and granted beforehand by the Noise Abatement and Control Administrator.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on February 25, 2016 and Approved Resolution No. 4763-PC.

Conditional Use Permit No. 1590980
Neighborhood Development Permit No. 1590979
February 25, 2016

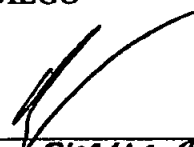
AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT


Simon Tse
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

CITY OF SAN DIEGO
Owner

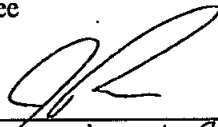
By 

NAME

TITLE

CYNTHIA THOMPSON
DIRECTOR, REAL ESTATE ASSESSORS

T-MOBILE USA
Permittee

By 

NAME

TITLE

Joseph Rose
Site Development Manager

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Diego

On March 16, 2014 before me, Stacie L. Maxwell, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Simon Tse
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: 1-Mobile Winterwood Park Document Date: February 25, 2014
Number of Pages: 8 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

ORIGINAL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

)

)§

COUNTY OF San Diego

)

On March 10, 2016 before me, Teresa Dolores Morse, Notary Public,
Date Here Insert Name and Title of Officer

Date _____

Here Insert Name and Title of Officer

personally appeared Cybele Thompson
Name of Signer

Name of Signer

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____

Louisa Selma Morse

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego

On March 4, 2016 before me, Melania Salyer, Notary Public
(insert name and title of the officer)

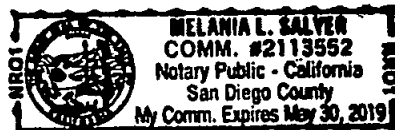
personally appeared Joseph Rose
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Melania Salyer

(Seal)



ORIGINAL

PLANNING COMMISSION RESOLUTION NO. 4763-PC
CONDITIONAL USE PERMIT NO. 1590980
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 1590979
T-MOBILE WINTERWOOD PARK PROJECT NO. 413332

WHEREAS, CITY OF SAN DIEGO, Owner and T-MOBILE USA, Permittee, filed an application with the City of San Diego for a permit to install a new Wireless Communication Facility (WCF) as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 1590980 and Neighborhood Development Permit No. 1590979.

WHEREAS, the project site is located at 7540 Winterwood Lane in the Open Space, OP-1-1 zone of the Mira Mesa Community Plan;

WHEREAS, the project site is legally described as Parcel A: That portion of Section 35, Township 14 South, Range 3 West, San Bernardino Meridian, described as follows: Beginning at a point on the West line of the Northeast quarter of said Section 35 that is North 0° 27' 22" East a distance of 329.44 feet along said West line from the Southwest corner of said Northeast quarter; Thence from said point of beginning North 0° 27' 22" East along said West line a distance of 150.00 feet to the Southwest corner of Lot 2878 of Mira Mesa Verde Unit No. 17, as shown on Map thereof No. 7048 filed in the office of the County Recorder of said County; Thence South 89° 14' 22" East along the Southerly line of said Mira Mesa Verde Unit No. 17 at a distance of 313.35 feet; Thence South 0° 27' 22" West a distance of 150.00 feet; Thence North 89° 14' 22" West a distance of 313.35 feet to the point of beginning.

Parcel B: Lot 2878 of Mira Mesa Verde Unit No. 17 as shown on Map thereof No. 7048, recorded September 14, 1971, filed in the office of the County Recorder of San Diego County.

WHEREAS, on February 25, 2016, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 1590980 and Neighborhood Development Permit No. 1590979 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on November 13, 2015, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) under CEQA Guideline Section 15303 (New Construction) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated February 25, 2016.

FINDINGS:

§126.0305 Findings for Conditional Use Permit

1. The proposed development will not adversely affect the applicable land use plan;

The proposed WCF has been designed to comply with the City's General Plan for wireless facilities. In the City's General Plan under section UD-A.15, all WCF are required to minimize visual impacts using the following criteria. Each WCF shall be concealed in existing structures when possible, or otherwise use camouflage and screening techniques to hide or blend them into the surrounding area. The WCF design must be aesthetically pleasing and respectful of the neighborhood context. The equipment associated with the WCF must be concealed in underground vaults or unobtrusive structures.

Consistent with the General Plan, T-Mobile's WCF will be camouflaged as a 60-foot tall monopine tree within Winterwood Lane Park and set back 43-feet 2-inches from the nearest residential property to the east. Several mature eucalyptus, palm and pine trees standing above 60 feet will provide the necessary screening to the adjacent residential use. These mature trees will also help blend T-Mobile's monopine tree into the surrounding park. While a standard WCF installation consists of twelve antennas; T-Mobile is proposing a maximum of eight antennas to minimize visibility. The reduction in antennas allows the tree manufacturer to provide greater branch coverage for a more natural tree appearance. The proposed monopine tree design will incorporate industry standards that include painting all mounting apparatus, heavy branch density, realistic bark texture, and the use of antenna socks.

The equipment associated with the proposed monopine will be located inside a 208-square foot Concrete Masonry Unit (CMU) enclosure with trellis roof and chain link lid. The enclosure is located immediately west of the proposed monopine tree and abuts an existing chain link fence separating Winterwood Lane Park from Challenger Middle School. To screen the equipment enclosure, T-Mobile is proposing a landscape palette that includes one 36-inch box pine tree, eighteen 5-gallon Sunset Manzanita and fifteen 15-gallon Mahonia. As designed, the equipment enclosure is consistent with the General Plan's requirement to conceal the equipment associated with wireless facilities in unobtrusive structures.

Therefore, the WCF as a whole is consistent with the City's General Plan for wireless facilities and the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The project consists of eight antennas and eight remote radio units on a 60-foot tall monopine tree located on the southeastern edge of the Winterwood Lane Park. The equipment associated with this project is located inside a 208-square foot CMU enclosure with a trellis roof and a chain link lid, painted a neutral color and treated with anti-graffiti paint.

The project will not have a significant effect on the environment, as was concluded in the initial study and then determined to be categorically exempt from the California Environmental Quality Act pursuant to Sections 15303 (New Construction). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on November 13, 2015 and the opportunity to appeal that determination ended November 27, 2015.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued public health, safety and welfare, including the requirement to obtain building permits which require compliance with the

applicable building, fire, mechanical, and plumbing codes and State and Federal disability access laws.

Additionally, the Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." T-Mobile submitted an Electro-Magnetic Emission Analysis, which concluded that the project complies with FCC RF standards. Therefore, the project will not result in any significant health or safety risks to the surrounding area within matters of the City's jurisdiction. In conclusion, the proposed project will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code; and

WCF are required to comply with Land Development Code Section 141.0420, which includes design requirements that supplement the purpose and intent of the City's General Plan for wireless facilities. Similar to the City's General Plan, Section 141.0420 requires all WCF to utilize the smallest, least visually intrusive antennas, components and other necessary components. The applicant shall use all reasonable means to conceal or minimize the visual impacts of WCF through integration. Integration with existing structures or among other existing uses shall be accomplished through the use of architecture, landscape, and siting solutions.

T-Mobile's proposed 60-foot tall monopine will use a maximum of eight antennas and eight remote radio units. A standard WCF installation would generally involve twelve antennas and twelve remote radio units but by reducing the total amount of antennas and remote radio units to eight, T-Mobile will be able to increase the branch coverage resulting in a more natural pine tree appearance. The proposed monopine tree will also be located behind the existing mature eucalyptus, palm, and pine trees to help blend in with the surrounding park. Existing landscape will provide the necessary screening between the residential use to the east and park patrons to the west. The location of the proposed monopine tree is also set back 43-feet 2-inches from the nearest residential uses to the east, and at the edge of the park, resulting in minimal park impacts.

The monopine tree will be designed to include certain integration elements resulting in a realistic tree appearance. First, the monopine tree includes a branch count of 3½ branches per foot for a heavy density appearance (total of 158 branches). Second, the branches are designed to extend twenty-four inches in front of each antenna. The coverage as a result of the branch extension would provide the appropriate foundation in screening the majority of the WCF. Additionally, antenna socks will be employed to increase the foliage density. The antenna socks are sleeves designed to wrap around the entire antenna. Artificial pine needles constructed of fiberglass materials are attached onto the sleeves. This practice of installing antenna socks increases the concealment of the antennas and blends them into the tree foliage. Finally, the antennas, RRUs, and mounting apparatus will be painted to match the bark to achieve the best visual results.

The 208-square foot CMU equipment enclosure is located immediately west of the proposed monopine and will include additional landscape to help with screening. The enclosure includes a trellis rooftop and a chain link lid for security. Although the WCF regulations require equipment to be located underground, LDC Section 141.0420(i)(2) provides an alternative for above-ground

equipment with the granting of an NDP and with authorization from the Park and Recreation Department Director who has determined that the above ground enclosure would not violate Charter Section 55. The Park and Recreation Department participated in the review of the T-Mobile Winterwood Lane Park project and determined that it would not violate Charter Section 55.

Pursuant to Land Development Code (LDC) Section 141.0420(i)(2), WCF located above ground on City-owned property that has been formally dedicated in perpetuity by ordinance for park purposes, must have a Neighborhood Development Permit (NDP) and a determination by the Park and Recreation Department Director that the above-ground enclosure would not violate Charter Section 55. The project also requires a Conditional Use Permit pursuant to LDC Sections 141.0420(f)(1) and 141.0420(f)(3). In conclusion, the proposed T-Mobile WCF, as designed and located, complies with the regulations as it will be minimally visible through the use of architecture, landscape and siting solutions, and will comply with the applicable regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The proposed T-Mobile WCF project is located in a Preference 4 location as outlined in Council Policy 600-43 (CP 600-43). CP 600-43 includes guidelines for placement of WCF. The guidelines set forth four locational categories that correspond to the Process levels contained within the WCF Regulations, LDC Section 141.0420. These guidelines establish a hierarchy from the most preferred location to least preferred location. Applications for sites either in Preference 2, 3, or 4 locations should include additional information from the applicant substantiating why a lower preference location was not utilized.

According to the applicant's Site Justification analysis, the proposed search ring, "SD07118A" targets the residential uses within 1½ miles surrounding the Winterwood Land Park. T-Mobile's site selection included the investigation of three existing sites and one new site. The three existing sites are all located within Preference 1 locations but would require extensive height increases to the existing design. Each design was taken into consideration but was ultimately rejected by T-Mobile due to coverage issues and design options to integrate within the surrounding area.

T-Mobile considered Challenger Middle School as a viable candidate. Challenger Middle School is located at 10810 Parkdale Ave and is considered a Preference 3 location. T-Mobile had investigated a design solution that involves attaching antennas onto replacement athletic field light poles but ruled out the site due to the school district's moratorium on new wireless facilities. In an effort to quickly deploy the necessary coverage and capacity to the area, T-Mobile decided to pursue the current Winterwood Lane Park location. Based on the information submitted by T-Mobile, staff was unable to identify any other lower Preference Level locations within the search ring.

T-Mobile's 60-foot tall monopine proposal is also appropriately designed and well integrated with the park setting that currently consists of existing mature eucalyptus and pine trees. These taller mature trees will provide the necessary backdrop to help the 60-foot tall monopine blend in with the surrounding park environment. The proposed use is appropriate at the proposed location based on the site justification analysis and the project design and siting solution within the current park location

§126.0404 Findings for Neighborhood Development Permit

1. The proposed development will not adversely affect the applicable land use plan;

The proposed WCF has been designed to comply with the City's General Plan for wireless facilities. In the City's General Plan under section UD-A.15, all WCF are required to minimize visual impacts using the following criteria. Each WCF shall be concealed in existing structures when possible, or otherwise use camouflage and screening techniques to hide or blend them into the surrounding area. The WCF design must be aesthetically pleasing and respectful of the neighborhood context. The equipment associated with the WCF must be concealed in underground vaults or unobtrusive structures.

Consistent with the General Plan, T-Mobile's WCF will be camouflaged as a 60-foot tall monopine tree within Winterwood Lane Park and set back 43-feet 2-inches from the nearest residential property to the east. Several mature eucalyptus, palm and pine trees standing above 60 feet will provide the necessary screening to the adjacent residential use. These mature trees will also help blend T-Mobile's monopine tree into the surrounding park. While a standard WCF installation consists of twelve antennas; T-Mobile is proposing a maximum of eight antennas to minimize visibility. The reduction in antennas allows the tree manufacturer to provide greater branch coverage for a more natural tree appearance. The proposed monopine tree design will incorporate industry standards that include painting all mounting apparatus, heavy branch density, realistic bark texture, and the use of antenna socks.

The equipment associated with the proposed monopine will be located inside a 208-square foot Concrete Masonry Unit (CMU) enclosure with trellis roof and chain link lid. The enclosure is located immediately west of the proposed monopine tree and abuts an existing chain link fence separating Winterwood Lane Park from Challenger Middle School. To screen the equipment enclosure, T-Mobile is proposing a landscape palette that includes one 36-inch box pine tree, eighteen 5-gallon Sunset Manzanita and fifteen 15-gallon Mahonia. As designed, the equipment enclosure is consistent with the General Plan's requirement to conceal the equipment associated with wireless facilities in unobtrusive structures.

Therefore, the WCF as a whole is consistent with the City's General Plan for wireless facilities and the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The project consists of eight antennas and eight remote radio units on a 60-foot tall monopine tree located on the southeastern edge of the Winterwood Lane Park. The equipment associated with this project is located inside a 208-square foot CMU enclosure with a trellis roof and a chain link lid, painted a neutral color and treated with anti-graffiti paint.

The project will not have a significant effect on the environment, as was concluded in the initial study and then determined to be categorically exempt from the California Environmental Quality Act pursuant to Sections 15303 (New Construction). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was

made on November 13, 2015 and the opportunity to appeal that determination ended November 27, 2015.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued public health, safety and welfare, including the requirement to obtain building permits which require compliance with the applicable building, fire, mechanical, and plumbing codes and State and Federal disability access laws.

Additionally, the Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." T-Mobile submitted an Electro-Magnetic Emission Analysis, which concluded that the project complies with FCC RF standards. Therefore, the project will not result in any significant health or safety risks to the surrounding area within matters of the City's jurisdiction. In conclusion, the proposed project will not be detrimental to the public health, safety, and welfare.

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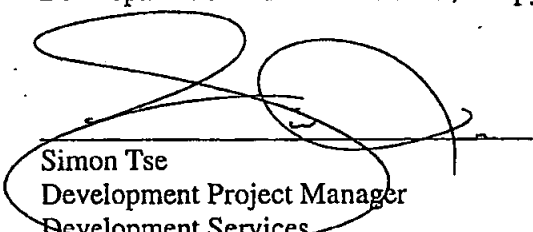
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BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1590980 and Neighborhood Development Permit No. 1590979 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 1590980 and Neighborhood Development Permit No. 1590979, a copy of which is attached hereto and made a part hereof.



Simon Tse
Development Project Manager
Development Services

Adopted on: February 25, 2016

SAP Number: 24005682

Modified HMD 1-26-15