



**CITY OF SAN DIEGO  
TELECOMMUNICATIONS LEASE**

**between**

**THE CITY OF SAN DIEGO**

**and**

**SPRINT PCS ASSETS, L.L.C.**

**at**

**Mountain View Community Center  
641 South Boundary Street  
(SD25XC755-A)**

## **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 SPRINT PCS ASSETS, L.L.C., (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 (Effective Date), once the Lease is approved by the San Diego City Attorney.

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" – includes, but is not limited to, antenna structures, 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, more particularly described in Exhibit C.
- 1.2. "Hazardous Substances" – those hazardous substances listed by the Environmental Protection Agency (EPA) in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances.
- 1.3. "LESSEE'S Operations" – LESSEE'S development, occupancy, use, and/or maintenance of the "Site" (defined below) and "Premises" (defined below).
- 1.4. "Premises" – that certain portion of the "Site" (defined below) used by LESSEE, more particularly described in Exhibit A.
- 1.5. "Site" – that certain parcel of City-owned real property located in the City of San Diego, County of San Diego, State of California, more particularly described in Exhibit A.

### **2. LEASED PROPERTY.**

- 2.1. Lease of Premises. Under the terms and conditions of this Lease, CITY leases to LESSEE and LESSEE leases from CITY, the Premises.
- 2.2. Access to Site. Unless otherwise provided, LESSEE, its agents, employees, contractors, guests, and invitees may enter the Site on a 24-hour, non-exclusive basis to access the Premises using such access points as shown or described in Exhibit A.

- 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 D, which LESSEE may record in the Office of the San Diego County Recorder.

**3. USES.**

LESSEE shall use the Premises solely and exclusively for the purposes, with proper permits and approvals obtained, of installing, constructing, modifying, maintaining, operating, and removing, all at LESSEE'S sole cost and expense, a wireless communication facility on the Premises, including, without limitation, LESSEE'S Communications Equipment.

- 3.1. Continuous Use. LESSEE shall continuously occupy and use the Premises throughout the term of this Lease (as defined below).
- 3.2. Unauthorized Use. LESSEE shall not operate its Communication Equipment or use the Premises or Site for other related or incidental activities of any kind without CITY'S prior written consent, which consent shall be in CITY'S sole discretion. The use of the Premises or Site for any unauthorized, illegal, or non-permitted purpose shall constitute a default of this Lease. Notwithstanding any provision of this Lease to the contrary, upon such default, CITY may, in its sole discretion, terminate this Lease immediately upon written notice to LESSEE.

**4. TERM.**

The term of this Lease (Term) shall be ten years, commencing on the Effective Date. "Lease Year" shall mean each twelve 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 day.

- 4.1. Holdover. LESSEE may not continue in possession of the Premises past the expiration or earlier termination of this Lease. Any extension of the Term shall require approval by the City Council pursuant to City Council Policy 700-10 ("Disposition of City-Owned Real Property").
- 4.2. Surrender. Upon the expiration or earlier termination of this Lease, LESSEE shall surrender the Premises 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. LESSEE shall surrender the Premises 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 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 rent for the remaining five Lease Years of the Term shall be determined by an appraisal, to be effective as of the first day of the sixth Lease Year (Adjustment Date). Such appraisal shall be performed by a staff appraiser of CITY’S Real Estate Assets Department (READ) or by a California State Certified General Real Estate Appraiser who is confirmed by READ as being competent in determining market rent for 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 Premises, the Qualified Appraiser shall base the valuation on an appraisal not more than six months old, as of the Adjustment Date, prepared by surveying comparable market rents for similar leased facilities in Southern California or other comparable market areas. If the appraisal is not completed prior to the Adjustment Date, LESSEE shall continue to pay rent in accordance with the then-existing Lease rates, and the adjustment, when determined, shall be retroactive to the Adjustment Date. Any deficiency shall be paid by LESSEE to CITY within thirty (30) 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 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 the remaining five (5) Lease Years shall be set at three and one-half (3.5%) percent above the annual rent for each preceding 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 PERMITTEE for amounts payable under this Permit. However, any such invoicing shall be deemed a courtesy only; PERMITTEE shall make all payments under this Permit 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 of the delinquent rent. If the rent is still unpaid at the end of fifteen calendar days past due, LESSEE shall pay an additional five percent (5%) (for a total of ten percent (10%)), which is agreed by the Parties to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. In no event shall the charge for late payments of rent be less than \$250. 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. Financial Records. LESSEE shall maintain, in accordance with generally accepted accounting practices, complete and accurate financial records showing all sublease or other rental income and receipts from its use of the Premises. LESSEE shall make any and all of its records and accounts relating to its use of the Premises available to CITY for inspection at a reasonable location and time 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 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 Premises. 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 Premises.

## 7. INSURANCE.

LESSEE shall not begin any work under Agreement until it has: (a) obtained, and upon the City's request provided to the City, insurance certificates reflecting evidence of all insurance required in 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 that all policies contain the specific provisions required below. LESSEE's liabilities, including but not limited to LESSEE's indemnity obligations, under this Agreement, 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 Agreement and LESSEE's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement 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 duration of this Agreement.

7.1 Types of Insurance. At all times during the term of this Agreement, 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 LESSEE's insurable property related to the Allowed Uses of the Premises under this Permit or 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.
- d. Workers' Compensation. For all of the LESSEE's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Contractor 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.

7.1.2 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.

7.1.3 Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by this PERMIT or in the Special General Conditions 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. The 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.

7.1.4 Modification. To assure protection from and against the kind and extent of risk existing with the Allowed Uses, 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 Allowed Uses.

7.1.5 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 Allowed Uses. 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.

7.1.6 Required Endorsements. The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

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 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 you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.
- 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 Contractor'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

bought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

**Automobile Liability Insurance Endorsements:**

- iv. **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 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 Contractor.
- v. **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.

**Worker's Compensation Insurance Endorsements:**

- vi. **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 the 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 the City.

**8. ACCEPTANCE OF PREMISES.**

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

**9. SITE PLANS.**

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

## **10. IMPROVEMENTS AND ALTERATIONS.**

LESSEE shall not construct any improvements, structures, or installations on the Premises, or make any alterations to the Premises (with the exception of necessary maintenance and/or repairs) without CITY'S prior written approval. LESSEE shall not make major structural or architectural design alterations to approved improvements, structures, or installations on the Premises without CITY'S prior written approval, which may not be unreasonably withheld.

- 10.1. Landscaping. If required in the approved site plans set forth in Exhibit B, LESSEE shall install landscaping and irrigation (collectively, "Landscaping") on the Premises 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 to the reasonable satisfaction of CITY'S Park and Recreation Department for a period of two (2) years from the date the Landscaping is installed on the Premises in conformance with the approved site plans set forth in Exhibit B (i.e., the date the installation of the Landscaping passes final inspection by CITY), 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 for the remainder of the Term.
- 10.2. Upgrading. If changes in technology occur during the Term that require LESSEE to upgrade the Communications Equipment, LESSEE may perform such upgrading, provided that LESSEE obtains CITY'S prior written approval, that the upgrading does not damage or interfere with any adjacent improvements on the Site, and that the upgrading complies with the requirements set forth in Exhibit E.
- 10.3. Information to Permitting Authorities. In obtaining any required permits for improvements, structures, installations, and/or alterations on the Premises, LESSEE shall inform permitting authorities, in writing, that the Premises are CITY-owned property.
- 10.4. Repair and Restoration. These provisions shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition as required in Section 17 of this Lease, 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 Premises for the permitted uses to the reasonable satisfaction of CITY. For purposes of this section, "competent management" shall mean demonstrated ability in the management and operation of a wireless communication facility and related activities in a fiscally 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. 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, 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. Water Quality – Best Management Practices. The CITY AND LESSEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities on the premises in a manner which aids in the protection of the City of San Diego's precious water resources. It is the PERMITTEE's responsibility to identify and implement an effective combination of BMP's so as not to cause pollutant discharges to the storm drain system in violation of Section 43.03, Stormwater Ordinance.
- Therefore, LESSEE shall, at a minimum, implement and comply, as applicable, with the BMP's for industrial and commercial facilities adopted under San Diego Municipal Code Section 43.0307(a).
- It is ultimately the LESSEE's responsibly to prevent pollutant discharges to the storm drain system. Therefore, the LESSEE will identify and implement any additional BMP's that may be required to avoid the discharged of pollutants to the storm drain system from the Premises.
- 12.4. Equal Benefits. LESSEE shall comply with SDMC 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 SDMC, LESSEE shall certify that it will maintain such equal benefits throughout the term of this Lease.

## **13. TELECOMMUNICATIONS PROVISIONS.**

- 13.1. Entire Installation. LESSEE represents and warrants that the Communications Equipment listed in Exhibit C constitutes the entire installation, which LESSEE shall update from time to time upon CITY'S request.
- 13.2. Radio Frequency Radiation. LESSEE shall maintain any radio frequency (RF) radiation associated with the Communications Equipment within the levels allowed by federal regulations set forth in Section 1.1310 of CFR 47 and OET Bulletin 65. Any

area within one thousand feet of any RF transmitting antenna on the Premises, casually accessible by the general public or by any worker at ground level, shall be maintained below limits stated for General Population/Uncontrolled Exposure. LESSEE shall report to CITY any areas discovered by LESSEE to exceed such federally mandated limits. LESSEE shall not hold CITY responsible for its radiation levels found to exceed such limits. Hazardous RF radiation levels may be encountered when climbing on antenna structures (Refer to FCC OET Bulletin 65). Any equipment installed on the Site may, at times, require shutdown to allow maintenance on antenna structures. LESSEE shall allow shutdown periods when required for such maintenance, provided CITY uses reasonable efforts to ensure that the shutdowns do not occur during peak hours of operation. Protection of employees performing service on buildings, roofs, air-conditioning equipment, water tanks, communications equipment, or any other maintenance work is of primary concern. Any areas in which such employees may be subjected to radiation levels that exceed the General Population/Uncontrolled Exposure limits must be clearly identified as required by CAL-OSHA. LESSEE shall provide CITY with written shutdown procedures, contact names, and telephone numbers. LESSEE shall notify CITY, in writing, of any changes to the shutdown procedures, contact names, or telephone numbers at least ten calendar days before the change.

- 13.3. Radio Frequency Interference. LESSEE shall comply with all requirements set forth in Exhibit E, which may be updated from time to time in CITY'S sole discretion. LESSEE warrants that all Communications Equipment installations, modifications, and maintenance will not result in degraded performance or RF interference with any CITY-authorized equipment on the Site, provided that the installation and operation of such CITY-authorized equipment pre-dates the installation of the Communications Equipment at the Site.
- 13.4. Industry Standards. LESSEE shall perform all Communications Equipment installations, modifications, and maintenance in adherence to industry standards set by the "Standards and Guidelines for Communications Sites" Motorola R56© Manual, or any succeeding regulations or standards. In addition to the requirements of the Motorola R56© publication, installations on CITY property shall comply with the following supplemental requirements:
- 13.4.1. LESSEE shall remove all trash and debris from the Premises at the end of each workday and upon completion of a project;
  - 13.4.2. Tower and structure climbing shall be done in compliance with all CAL-OSHA requirements;
  - 13.4.3. All transmitters shall have all necessary protection, such as cavity filtering and transmitter isolators, to eliminate any RF degradation of the receive signal to other users on the Site; and

- 13.4.4. LESSEE shall comply with the requirements set forth in Exhibit F with respect to any Communications Equipment installation or modification. CITY may, in its sole discretion, update Exhibit F from time to time.
- 13.5. Co-Location. If the Site is a shared site, LESSEE shall not access any other wireless communication facility or CITY-owned communications equipment (including any towers) on the Site without CITY'S prior consent.
- 13.6. Interference with CITY Operations or Public Use. LESSEE'S Operations shall not interfere with CITY operations or public use of CITY-owned property.
- 13.7. Site Access and Security. If the Site is located on Water Department property, LESSEE shall comply with the procedures described in Exhibit H, which may be updated from time to time in CITY'S sole discretion. LESSEE'S failure to comply with such procedures shall be a default of this Lease.
- 13.8. CITY Water Tanks. If any Communications Equipment is attached to CITY water tanks, upon CITY'S request, LESSEE shall immediately repair the water tanks at the attachment location, re-attach loose Communications Equipment, or otherwise change the attachment method as CITY may reasonably direct. LESSEE shall temporarily remove its Communications Equipment from CITY water tanks during periods of water tank maintenance and painting.

#### **14. WASTE, DAMAGE, OR DESTRUCTION.**

LESSEE shall immediately give notice to CITY of any fire or any other damage that occurs on the Premises. 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 Premises clean and clear of refuse and obstructions, and dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the Premises is damaged by any cause that puts the 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 Premises to the condition which existed prior to the damage; or, at CITY'S option, LESSEE shall clear and remove from the Premises all debris resulting from the damage and restore the Premises in accordance with plans and specifications previously submitted to and approved by CITY, in writing, 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 Premises as soon as practicable, but no later than thirty calendar days after the occurrence of the fire or damage, and shall complete the required repairs and/or restoration of the Premises within one hundred eighty calendar days after such occurrence.

#### **15. HAZARDOUS SUBSTANCES.**

LESSEE shall not allow the installation or release of Hazardous Substances in, on, under, or from the Premises or Site. LESSEE and LESSEE'S agents and contractors shall not store, utilize, or sell any Hazardous Substance on the Premises or Site without CITY'S prior written consent. For the purpose of this section, a release shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping,

leeching, dumping, or otherwise disposing of Hazardous Substances. "Hazardous substances" shall mean any hazardous liquid, solid, or gaseous material substances listed by the United States Environmental Protection Agency or the State of California as a hazardous substance, and any type of petroleum-related substances and their chemical constituents.

- 15.1. Remediation. If LESSEE'S Operations result in a release of a Hazardous Substance, LESSEE shall pay all costs of remediation and removal of the Hazardous Substance in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 15.2. Indemnification. 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 Operations, including, without limitation, costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.
- 15.3. Notice of Release. If LESSEE knows or has reasonable cause to believe that a Hazardous Substance has been released on or beneath the Premises or Site, LESSEE shall immediately notify CITY and deliver a written report thereof to CITY within three calendar days after receipt of the knowledge or cause for belief. If LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and/or safety, LESSEE may take all actions necessary to alleviate the danger. LESSEE shall notify CITY immediately of any notice of violation received, environmental action initiated, or private suit filed that is related to the Premises or Site.
- 15.4. Environmental Assessment. Upon reasonable cause to believe that LESSEE'S Operations resulted in any Hazardous Substance being released on or beneath the Premises or Site, CITY may cause an environmental assessment of the Premises or Site to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at LESSEE'S sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by LESSEE'S Operations on, in, or under the Premises or Site, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal. LESSEE shall cause, or if LESSEE fails to do so within a reasonable period of time, CITY may cause, the remediation and/or removal recommended in the environmental assessment, such that compliance with environmental law is achieved, and LESSEE shall pay all costs and expenses therefor.

## **16. 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 without CITY'S prior written consent. If any such unauthorized item is found on the Premises, LESSEE shall remove the item at LESSEE'S sole cost and expense within twenty-four hours after CITY'S demand therefor, or CITY may then enter the Premises and remove the item at LESSEE'S cost and expense. LESSEE shall post a clearly marked sign at the Premises indicating LESSEE'S name and emergency telephone number.

## **17. MAINTENANCE.**

LESSEE shall, at its sole cost and expense, continuously maintain the Premises 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 Premises in a decent, safe, healthy, and sanitary condition. All such maintenance (including repairs and restoration) shall be completed to the satisfaction of CITY, in conformance with the description of the Site and Premises set forth in Exhibit A, and in compliance with all applicable codes and standards of CITY, state, and federal agencies.

- 17.1. 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 hours notice prior to commencing the work (except in the event of an emergency, in which case, no notice shall be required), 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.
- 17.2. If the Site is located on non-Water Department property, the Parties shall comply with the emergency maintenance procedures set forth in Exhibit G, including the requirement to notify the other party, in writing, of any changes to its emergency contacts and telephone numbers.

## **18. ENTRY AND INSPECTION.**

CITY may, at any time, without any obligation to do so, enter the Premises for the purpose of viewing and ascertaining the condition of the Premises, or to protect CITY'S interest in the Premises, or to inspect the operations conducted on the Premises. If CITY'S entry or inspection discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, after ten calendar days written notice to LESSEE, have any necessary maintenance work done in order to keep the Premises in a decent, safe, healthy, and sanitary condition, all at LESSEE'S sole cost and expense, and LESSEE shall promptly pay any and all costs incurred by CITY in having the necessary maintenance work done. If at any time CITY determines that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, without additional notice, require LESSEE to file with CITY a faithful

performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. The bond shall be in an amount adequate, in CITY'S opinion, to correct the unsatisfactory condition. LESSEE shall pay the cost of the bond. The rights reserved in this section shall not create any obligation on CITY or increase CITY'S obligations elsewhere in this Lease.

**19. UTILITIES.**

LESSEE shall order, obtain, and pay for all utilities, service, and installation charges in connection with LESSEE'S Operations. All utilities shall be installed underground.

**20. TAXES.**

LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE, or levied by reason of LESSEE'S business or other LESSEE activities related to the Premises, including, without limitation, any licenses or permits. LESSEE acknowledges that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes 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.

**21. 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 Premises, 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.

**22. ENCUMBRANCES.**

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

22.1. 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 Premises, including, but not limited to, the following: off-site improvements for service of the Premises; on-site improvements; escrow charges;

premiums for hazard insurance or other insurance or bonds required by CITY; title insurance premiums; reasonable loan costs, such as discounts, interest, and commissions; and architectural, engineering, and attorney fees and other normal expenses incidental to such installation.

- 22.2. Subsequent Encumbrances. After the Premises are fully developed, as contemplated by this Lease and to CITY'S satisfaction, if LESSEE proposes a subsequent encumbrance on its leasehold estate hereunder, then CITY'S consent thereto may be subject, in CITY'S sole discretion and without limitation, to increasing the rent to then-current market rates. LESSEE may use the proceeds from any such subsequent encumbrance for any purpose approved by CITY.
- 22.3. 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.
- 22.4. 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, which may not be unreasonably withheld, provided such person is of good character and reputation in the community.
- 22.5. 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 Premises, and all costs of defending against such claims, including, without limitation, reasonable attorney fees. If LESSEE'S use, improvement, alteration, maintenance, or repair of the Premises results in a lien or notice of lien being filed against the Premises or Site LESSEE shall, within five 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.

## **23. ASSIGNMENT AND SUBLETTING.**

### **23.1. Assignment.**

- 23.1.1. 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 stockholders 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.

- 23.1.2. 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.
- 23.1.3. CITY'S consent to any Assignment pursuant to Section 23.1.2 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.
- 23.1.4. LESSEE shall not permit any person or entity (other than the employees, agents, contractors, and/or guests of LESSEE) to use or occupy the Premises, or any part of the Premises.
- 23.1.5. Consent by CITY to any Assignment of this Lease pursuant to Section 23.1.2 shall not be deemed to be consent to any subsequent Assignment to the same or any other person.
- 23.1.6. 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.
- 23.1.7. Any Assignment of this Lease, or any use or occupancy of the Pole Attachment by any other person, in violation of the foregoing provisions (Sections 23.1.1 through 23.1.6) shall be void and a default of this Lease, and CITY may thereupon terminate this Lease.
- 23.2. Subletting. LESSEE shall not sublet, in whole or in part, the Premises, or any right or appurtenant privilege to the Premises.
  - 23.2.1 Any subletting, in whole or in part, of the Premises shall be void and shall be a default of this Lease, and CITY may thereupon terminate this Lease.
- 23.3. 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.

## **24. INDEMNIFICATION.**

- 24.1. LESSEE'S Indemnity Obligation. 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 which arise out of or are in any manner directly or indirectly connected with this Lease or LESSEE'S Operations, and all costs and expenses of investigating and defending against same, including, without limitation, reasonable attorney fees and costs; provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole 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 of the costs related thereto, including, without limitation, reasonable attorney fees and costs.

## **25. RELATED COUNCIL 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 Premises. 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 and obtain, at its sole cost and expense, all entitlements and actions from both CITY and other governmental agencies with jurisdiction over the Premises, as are necessary for LESSEE'S Operations.

## **26. CITY'S RESERVATION OF RIGHTS.**

- 26.1. Resources. CITY reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.
- 26.2. Use. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as CITY deems advisable, in its sole discretion, for the public good.
- 26.3. Entry. CITY may enter the Premises to develop and/or make repairs to municipal resources and services. CITY shall not unreasonably interfere with LESSEE'S use of the Premises and shall reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises or 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.

## **27. REASSIGNMENT OF SPACE.**

At any time during the Term, but only once during the initial term of this Lease, CITY, in its sole discretion, may reassign LESSEE to a different location within the Site.

- 27.1. Timing and Costs. LESSEE shall relocate its Communications Equipment to the Relocation Space either within ninety calendar days after the execution of a written agreement between the Parties concerning the location and dimensions of the Relocation Space, 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 Space. LESSEE shall cooperate fully with CITY and its contractors during any reassignment, and shall pay all expenses associated with the reassignment.

- 27.2. 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.
- 27.3. Broadcast and/or Receiving Capability. CITY shall use its best efforts to ensure continuous, uninterrupted broadcast, and/or receiving capability during any conversion, including the installation and operation by LESSEE of a CITY-approved temporary wireless communication facility on the Site.
- 27.4. No Agreement. If CITY and LESSEE are unable to agree on an acceptable relocation space, then LESSEE may terminate this Lease upon thirty calendar days prior written notice to CITY, without further obligation thereto.
- 27.5. Premises Redefined. After a reassignment and relocation as provided in this section, the Premises shall be redefined to be the Relocation Space. CITY and LESSEE agree that "as built" drawings of the Relocation Space, 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 shall be amended (pursuant to Section 32.12 below) to include a full description of the Relocation Space 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.

## **28. EMINENT DOMAIN.**

If all or part of the Premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or its beneficiary or mortgagee) shall be as follows:

- 28.1. Full Taking. If the entire Premises is taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
- 28.2. Partial Taking - Remainder Unusable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises is unsuitable for the Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
- 28.3. Partial Taking - Remainder Usable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises is suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The rent shall be equitably reduced to

reflect the portion of the Premises taken, but only to the extent that LESSEE'S use of the Premises is reduced or impaired.

28.4. 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.

28.5. Transfer. CITY may transfer CITY'S interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If 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 Premises in accordance with this Lease.

28.6. 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.

## **29. DEFAULT AND REMEDIES.**

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

29.1.1. LESSEE'S failure to make any payment required under this Lease when due, if the failure continues for five calendar days past due following written notice of the failure by CITY;

29.1.2. LESSEE'S breach of any of its obligations under this Lease, other than those requiring payment to CITY, and LESSEE either: (i) fails to cure the breach within thirty calendar days following written notice from CITY; or, (ii) if such breach is not curable within thirty calendar days, fails to commence to cure the breach within thirty calendar days and to diligently pursue the cure to completion;

29.1.3. LESSEE voluntarily files any petition under any bankruptcy or insolvency act or law;

29.1.4. LESSEE has involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the matter is not dismissed by a court of competent jurisdiction within ninety calendar days of filing;

29.1.5. LESSEE is adjudicated a bankrupt;

29.1.6. LESSEE makes a general assignment for the benefit of creditors;

29.1.7. LESSEE uses the Premises for any unauthorized purpose.

29.2. Remedies.

- 29.2.1. 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.
- 29.2.2. For Monetary Default. Upon LESSEE'S default for nonpayment under Section 29.1.1 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 Premises or to possession of the Premises, and CITY may enter and take possession of the Premises and may recover the amount set forth below.
- 29.2.3. For Non-Monetary Default. Upon LESSEE'S default based upon Sections 29.1.2 through 29.1.7 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 Premises or possession of the Premises, and CITY may enter and take possession of the Premises and may recover from LESSEE the amount set forth below. If any default described in Sections 29.1.2 through 29.1.7 of this Lease is not curable within thirty 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.
- 29.2.4. CITY'S Recovery Upon Termination. Upon termination of the Lease due to LESSEE'S default, CITY may recover the sum of:
- 29.2.4.1. The worth at the time of award of any unpaid rent that had been due at the time of termination; plus
  - 29.2.4.2. 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
  - 29.2.4.3. 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
  - 29.2.4.4. 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

- 29.2.4.5. All other amounts in addition to or in lieu of those previously stated as may be permitted by California law.
  - 29.2.4.6. As used in Sections 29.2.4.1 and 29.2.4.2, the “worth at time of award” shall be computed by allowing interest at the rate of ten percent per annum. As used in Section 29.2.4.3, 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. As used in this section, the term “rent” shall include base rent, percentage rent, and any and all other amounts that LESSEE is required to pay to CITY under this Lease.
  - 29.2.4.7. The calculation of any sum under this section shall be based on a 30-day month and a 360-day year.
- 29.3. 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 calendar days to cure the default or, if the default is not curable within thirty 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.
- 29.3.1. 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:
    - 29.3.1.1. CITY may correct the default and charge the costs incurred to LESSEE’S account, which charge shall be due and payable on the date that the rent is next due after CITY’S statement of such costs is delivered to LESSEE and mortgagee or beneficiary;
    - 29.3.1.2. 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
    - 29.3.1.3. 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.

- 29.3.2. 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 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.
- 29.4. Quitclaim Deed. Upon termination of this Lease for any reason, LESSEE shall execute, acknowledge, and deliver to CITY, within ten calendar days after written demand, a valid and recordable quitclaim deed relinquishing LESSEE'S interest in the Premises. 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 Premises.
- 29.5. Abandonment by LESSEE. If LESSEE breaches this Lease and abandons the Premises, this Lease shall continue in effect as long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies under this Lease, including, without limitation, the right to recover the rent as it becomes due, plus damages.
- 29.6. 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 Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego. CITY'S failure to discover a breach or default or take prompt action to require the cure of any breach or default shall not result in an equitable estoppel, but CITY may, at all times, require the cure of any breach or default regardless of when discovered.

### **30. OWNERSHIP OF IMPROVEMENTS AND PERSONAL PROPERTY.**

Except as otherwise provided in this section, all improvements to the Premises (including, without limitation, all structures, trade fixtures, installations, and additions), constructed on the Site by LESSEE or by LESSEE'S sublessees, contractors, and/or subcontractors at any time during the Term (hereinafter referred to in this section as "LESSEE'S Improvements"), as well as all Communications Equipment, machines, appliances, equipment, and other personal property, brought to the Site by LESSEE or LESSEE'S sublessees, contractors, and/or subcontractors at any time during the Term (all or any portion thereof hereinafter referred to in this section as "LESSEE'S Personal Property"), shall be the property of LESSEE (hereinafter referred to in this section as "LESSEE'S Property").

30.1. At the expiration or earlier termination of this Lease, and at CITY'S option, any and all of LESSEE'S Improvements shall be deemed to be part of the Premises and shall become CITY'S property free of all liens and claims, except as otherwise provided in this Lease.

30.1.1. If CITY elects not to assume ownership of any of LESSEE'S Improvements, CITY shall notify LESSEE at least one hundred eighty calendar days prior to the expiration of this Lease, or immediately upon earlier termination of this Lease, and LESSEE shall remove all such LESSEE'S Improvements as directed by CITY, all at LESSEE'S sole cost and expense. If LESSEE fails to remove any of LESSEE'S Improvements as directed, CITY may cause their removal, and LESSEE shall reimburse CITY on demand for the full cost thereof.

30.2. On or before the expiration of this Lease, or as CITY may direct upon earlier termination of this Lease, LESSEE shall remove from the Premises LESSEE'S Personal Property. If LESSEE fails to remove any of LESSEE'S Personal 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 thereof.

30.2.1. If LESSEE desires to dispose of any of LESSEE'S Personal Property used in the operation of its wireless communication facilities on the Premises, CITY shall have the first right to acquire or purchase such property.

30.3. LESSEE shall repair, at its sole cost and expense, all damage to the Premises resulting from the removal of LESSEE'S Property from the Premises by LESSEE or LESSEE'S sublessees, contractors, and/or subcontractors.

30.3.1. If the removal of LESSEE'S Property by LESSEE (or LESSEE'S sublessees, 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.

**31. 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:

Sprint/Nextel Property Services  
Mailstop: KSOPHT0101-Z2650  
6391 Sprint Parkway  
Overland Park, KS 66251-2650

With a copy to:

Sprint/Nextel Law Department  
Attention: Real Estate Attorney  
Mailstop KSOPHT0101-Z2020  
6391 Sprint Parkway  
Overland Park, KS 66251-2020

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

If to CITY'S General Services Department, Communications Division:

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

If to CITY'S Water Department for site access, in accordance with Exhibit H:

City of San Diego  
Water Department  
Attention: Program Manager

2797 Caminito Chollas  
San Diego, CA 92105

- 31.1. 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.
- 31.2. When Effective. Notice shall be effective upon personal service, or five calendar days after deposit in the U. S. mail.

## **32. MISCELLANEOUS PROVISIONS.**

- 32.1. Governing Law. This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California.
- 32.2. 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 Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each party to this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease. The failure or refusal of any party to read this Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such actions.
- 32.3. 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, 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.
- 32.4. 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.
- 32.5. Time of the Essence. Time is of the essence for each and every term, covenant, and condition of this Lease.
- 32.6. Standard of Conduct. LESSEE and its employees shall, at all times, conduct themselves and LESSEE'S Operations on the Premises in a creditable manner and in accordance with industry standards.
- 32.7. 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.

- 32.8. 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 calendar days after the beginning of any such claimed delay.
- 32.9. 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 City Manager or his designee (City Manager), unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made at the City Manager's discretion, unless otherwise expressly provided.
- 32.10. San Diego's Strong Mayor Form of Governance. All references to "City Manager" in this Lease (and all subsequent amendments to this Lease) shall be deemed to refer to the "Mayor or his designee." This section shall remain in effect for the duration CITY operates under the mayor-council (commonly referred to as the "strong mayor") form of governance, pursuant to Article XV of CITY'S City Charter.
- 32.11. Consent by Either Party. Except as otherwise expressly provided in this Lease, consent to be given by either party shall not be unreasonably withheld or delayed.
- 32.12. 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.
- 32.13. 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.
- 32.14. 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.
- 32.15. 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.
- 32.16. 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.

- 32.17. Authority to Execute and Deliver Lease. Each individual executing this Lease on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions 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.
- 32.18. 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.

(The remainder of this page intentionally left blank.)

32.19. 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: 2/6/14

THE CITY OF SAN DIEGO, a California municipal corporation

By [Signature]  
(Print Name) James F. Barwick, CCIM  
(Title) Director, Real Estate Assets

Date: 01/24/14

LESSEE: SPRINT PCS ASSETS, L.L.C., a Delaware limited liability company

By [Signature]  
(Print Name) Kathryn Crompton  
(Title) Site Development Mgr  
Date: 01/24/14

Environmental Analysis Section Environmental Clearance:

Exempt per CEQA Section 15303

Date: 2/5/2014

BY: [Signature]  
Name: MATTHE BLAKE  
Title: Senior Planner

APPROVED AS TO FORM AND LEGALITY:

Date: 2/26/14

JAN I. GOLDSMITH, City Attorney

By [Signature]  
Chief Deputy City Attorney

Exhibit A

Description of Site and Premises

LESSEE Site Number: SD25XC755

Location: South Crest

Assessor's parcel Number: 547-520-27, 28, 29

Legal Description:

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

Parcel 1:

All of Lots 13 to 16 inclusive and the North 110.00 feet of Lot 17 in Block 58 of Carruther's Addition, in the City of San Diego, State of California, according to Plat of Survey of Lots 13, 14, 15, 16 and the North 110.00 feet of Lot 17 in Block 58 of Carruther's Addition, as shown on Map thereof No. 1557 filed in the office of the County Recorder of San Diego County, April 8, 1913.

Excepting therefrom the following described property:

Beginning at the Northwest corner of said Lot 13;  
Thence South 16° 11' 00" East, along the East line of Boundary Street, 243.00 feet;  
Thence North 86° 43' 00" East, 239.00 feet;  
Thence South 68° 56' 30" East, 171.90 feet;  
Thence South 02° 25' 00" East, 267.92 feet;  
Thence South 29° 11' 00" East, 170.00 feet;  
Thence South 23° 30' 00" West, 55.00 feet to the South line of North 110.00 feet of said Lot 17;  
Thence South 89° 40' 00" East along said South line 545.00 feet to the East line of said Lot 17;  
Thence North 00° 16' 00" East along the East line of Lots 17, 16, 15, 14 and 13, 744.04 feet to the Northeast corner of Lot 13;  
Thence North 89° 40' 00" West along the South line of Ocean View Boulevard, 1087.50 feet to the point of beginning.

Parcel 2:

That portion of the Northerly 110.00 feet of Lot 17, Block 58 of Carruther's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1557, filed in the office of the County Recorder of San Diego County, April 8, 1913, described as follows:

Beginning at the most Southerly corner of Lot 16 of Ocean View Terrace, according to Map thereof No. 2641, filed in the office of the County Recorder of San Diego County, March 31, 1950; being a point on the arc of a 35.00 foot radius curve concave Easterly, a radial line of said curve bears North 66° 30' 00" West to said point;  
Thence along the boundary of said Map No. 2641, as follows:

Southerly along the arc of said curve through a central angle of 52° 00' 50" a distance of 31.77 feet to the beginning of a reverse 20.00 foot radius curve; Southerly along the arc of said curve through a central angle of 35° 05' 50" a distance of 12.25 feet; and tangent to said curve South 06° 35' 00" West, 8.08 feet to the Southerly line of said Northerly 110.00 feet of Lot 17;

Thence North 89° 39' 55" West along said Southerly line to a line that bears South 23° 30' 00" West from the point of beginning;  
Thence North 23° 30' 00" East, 55.00 feet to the point of beginning.

Description of Premises:

Sprint Wireless Telecommunication facility consisting of:

- Five (5) equipment cabinets mounted on concrete slab inside a 210 square feet CMU block equipment enclosure
- Sixteen (16) panel antennas and eight (8) Radio Remote Units (RRU's) mounted behind RFP screened cupola on existing building
- Associated equipment including power, telco and coax cables

**Exhibit B:**  
**Site Plans**



Project No:

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

EXHIBIT "A" EXISTING DRIVEWAY

Project Number: 283359

Approval Date: 3.28.13 TST.

Signed (1st Sheet):

01 SITE PLAN  
SCALE: 1" = 20'-0"

GRADES QUANTITIES  
DISTURBED AREA 800.81  
CUT QUANTITIES 80.00  
FILL QUANTITIES 0.00

- NOTES:
1. NO EXISTING PARKING SPACE WILL BE USED OR RECOVERED BY THIS PROJECT.
  2. PROPOSED EQUIPMENT ENCLOSURE WILL NOT BLOCK OR ALTER THE EXISTING STREET WATER SURFACE DRAINAGE PATTERN.
  3. THE APPLICANT SHALL OBTAIN A NON-EXCLUSIVE RIGHT-OF-WAY AGREEMENT FROM THE CITY OF SAN DIEGO FOR THE PROPOSED HOSE IN THE BOUNDARY STREET RIGHT-OF-WAY.
  4. THE APPLICANT SHALL OBTAIN A PUBLIC RIGHT-OF-WAY PERMIT FOR THE PROPOSED HOSE IN THE BOUNDARY STREET RIGHT-OF-WAY.
  5. PRIOR TO THE RESUME OF ANY CONSTRUCTION PERMIT, THE PERMITTEE SHALL ENTER INTO A MAINTENANCE AGREEMENT FOR THE DRAINAGE PERMANENT BMP MAINTENANCE, SATISFACTORY TO THE CITY ENGINEER.
  6. PRIOR TO THE RESUME OF ANY CONSTRUCTION PERMIT, THE PERMITTEE SHALL INCORPORATE BEST MANAGEMENT PRACTICES NECESSARY TO COMPLY WITH CHAPTER 4 ARTICLE 2, DIVISION 1 (EROSION REGULATIONS) OF THE SAN DIEGO MUNICIPAL CODE, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS.
  7. PRIOR TO THE RESUME OF ANY CONSTRUCTION PERMIT, THE PERMITTEE SHALL SUBMIT A WATER POLLUTION CONTROL PLAN (WPCP) THE WPCP SHALL BE PREPARED IN ACCORDANCE WITH THE SUBSIDIARIES IN APPENDIX E OF THE CITY'S STORM WATER STANDARDS.
  8. SAN DIEGO MUNICIPAL CODE SECTION 16.0401 REPAIR AND REPLACEMENT OF PUBLIC FACILITIES STATES: "WHERE IN THE COURSE OF DEVELOPMENT OR PRIVATE PROPERTY, PUBLIC FACILITIES ARE DAMAGED OR REMOVED, THE PROPERTY OWNER SHALL, AT NO COST TO THE CITY, REPAIR OR REPLACE THE PUBLIC FACILITY TO THE SATISFACTION OF THE CITY ENGINEER."

- SECURITY NOTES:
1. USE A JOBBED SHACKLE OR SHOCKED PADLOCK ON THE GATE TO THE EQUIPMENT ENCLOSURE.
  2. INSTALL ALARM COPY/NOT SIGN ON GATE.
  3. USE PADLOCKS ON THE GATES IN THE ENCLOSURE. MAKE SURE THEY ARE LOCKED AT ALL TIMES.

Letter's Certificate  
Standard Wireless Facility Project  
for Public Communication Systems

I, the undersigned, as owner of a portion of the property described as:

3000 ROBINSON BLVD., SAN DIEGO, CA 92108

(Address or legal description)

understand that, in accordance with the San Diego Municipal Code, Land Development Parcel - Bureau under Standards, the project is required to "fully disclose from the Project Approval and incorporate 'Site Design' and 'Source Control' BMPs."

I certify to the best of my knowledge, that the information anticipated by the proposed and are as follows:

- Setback:
- Height:
- Trunk & Main:
- Designating Substance:
- On & Ground:
- Structure & Design:
- Facilities:

Use will incorporate the following into the site design:

- Thorough pre-development runoff characteristics
- Thorough inspection that prior to constructing setbacks, poles and structures with permeable surfaces
- Control natural areas
- Use natural drainage systems as opposed to steel drains or underground drainage systems
- Shore road signs, setbacks, poles and structures into adjacent landscaping prior to destruction to the public drainage system
- Prevent erosion control from erosion
- Prevent or reduce from erosion

Additionally, Use will:

- Prohibit the use of pesticides
- Use efficient irrigation systems and "irrigation design, incorporating rain shut-off devices and flow meters as needed"
- Use will maintain the same Standard Permanent BMPs for the duration of the site.

Witness: STEPHEN DEJANS Company Name: SPRINT NEXTEL  
(Print name)

Witness: Date: 03/28/2013  
(Signature)

ORIGINAL

Underground Service Alert  
Call TOLL FREE  
1-800  
422-4133  
TOLL FREE DIALS BEFORE YOU DIG  
NEVER A QUALITY OF PUBLIC SAFETY  
CITY OF SAN DIEGO - 2013

SITE PLAN & NOTES

SOUTH CREST  
SPRINT NEXTEL  
3000 ROBINSON BLVD.  
SAN DIEGO, CA 92108

architect Mitchell J architecture

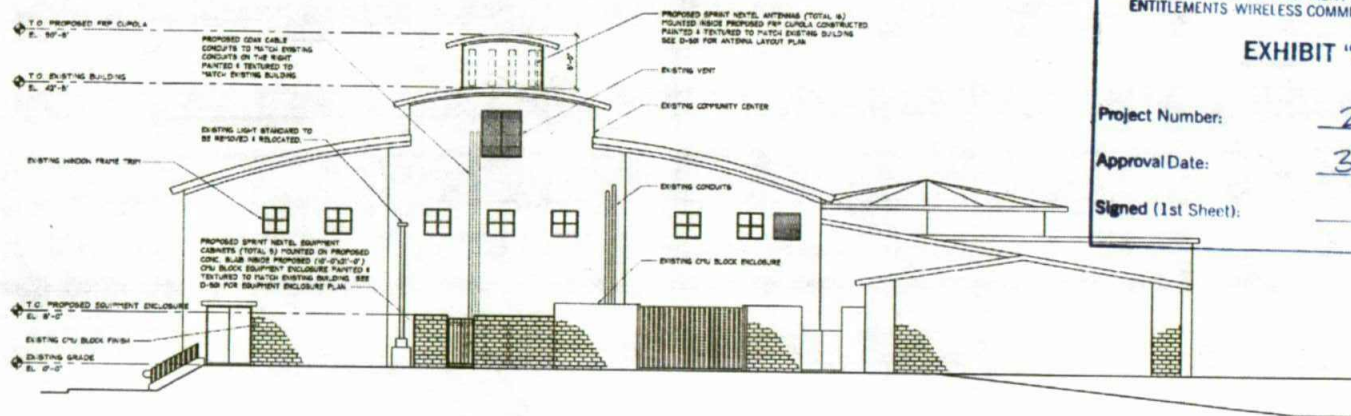
Project No: A-101

| No. | Revision/Issue    | Date     |
|-----|-------------------|----------|
| 1   | Issue No. Revised | 02-27-13 |
| 2   | Issue No. Revised | 03-05-13 |
| 3   | Issue No. Revised | 03-05-13 |
| 4   | Issue No. Revised | 03-05-13 |
| 5   | Issue No. Revised | 03-05-13 |
| 6   | Issue No. Revised | 03-05-13 |
| 7   | Issue No. Revised | 03-05-13 |
| 8   | Issue No. Revised | 03-05-13 |
| 9   | Issue No. Revised | 03-05-13 |
| 10  | Issue No. Revised | 03-05-13 |

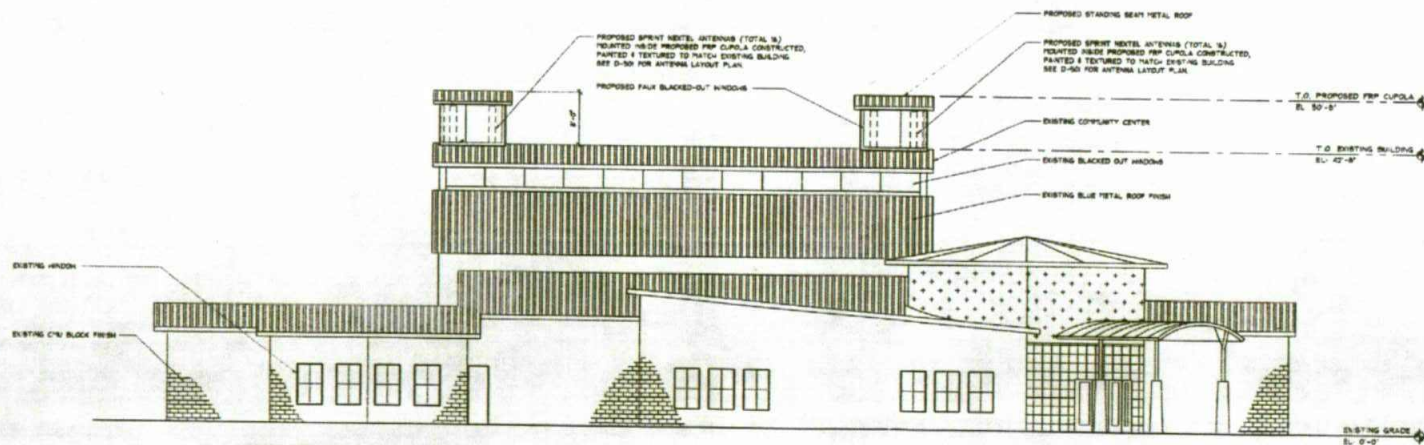
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03-05-13  
03-05-13  
03-05-13  
03-05-13  
03-05-13  
03-05-13  
03-05-13  
03-05-13

1" = 20'-0"

Architect Mitchell J architecture



01 **NORTH ELEVATIONS**  
SCALE: 1/8" = 1'-0"



02 **WEST ELEVATIONS**  
SCALE: 1/8" = 1'-0"

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

**EXHIBIT "A"**

Project Number: 28335A  
Approval Date: 3.28.13  
Signed (1st Sheet): [Signature]

EXTERIOR ELEVATIONS  
SOUTH CREST  
3233 S. CREST ST.  
SAN DIEGO, CA 92113  
architect Mitchell J architecture  
Sprint  
Together with NEXTEL



A-201

Project No:

ORIGINAL



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

EXHIBIT "A"

Project Number:

Approval Date:

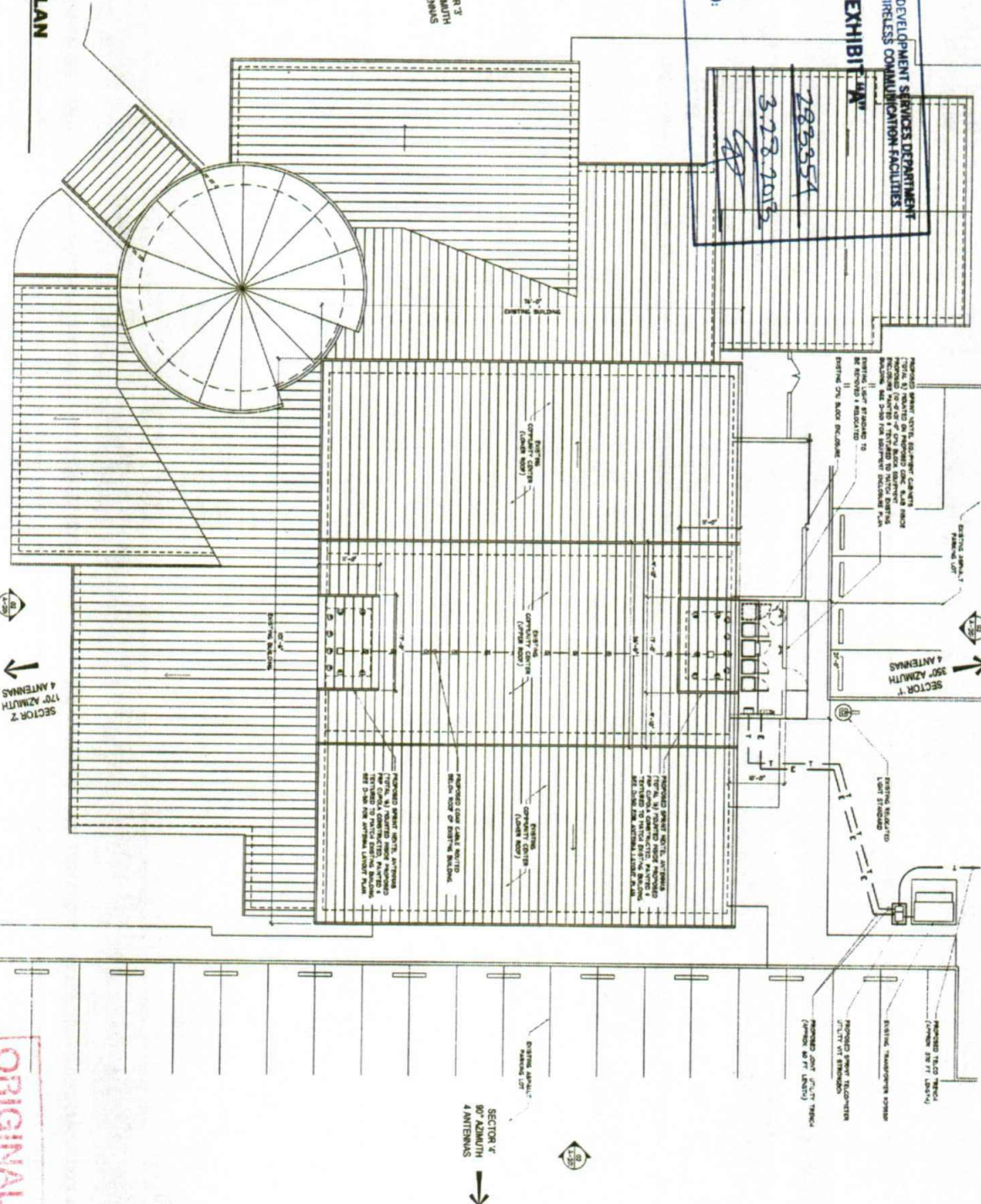
Signed (1st Sheet):

283354  
3.28.2015  
[Signature]

SITE PLAN



01 SITE PLAN



ORIGINAL

ENLARGED ROOF PLAN

**SOUTH CREST**  
ND25XC733  
641 BOUNDARY ST.  
SAN DIEGO CA 92113

**Sprint**  
Together with NEXTEL

1791 Century Dr. Suite 100  
San Diego, CA 92111  
Tel: 619-594-8800  
Fax: 619-594-8801

**M**  
Mitchell J

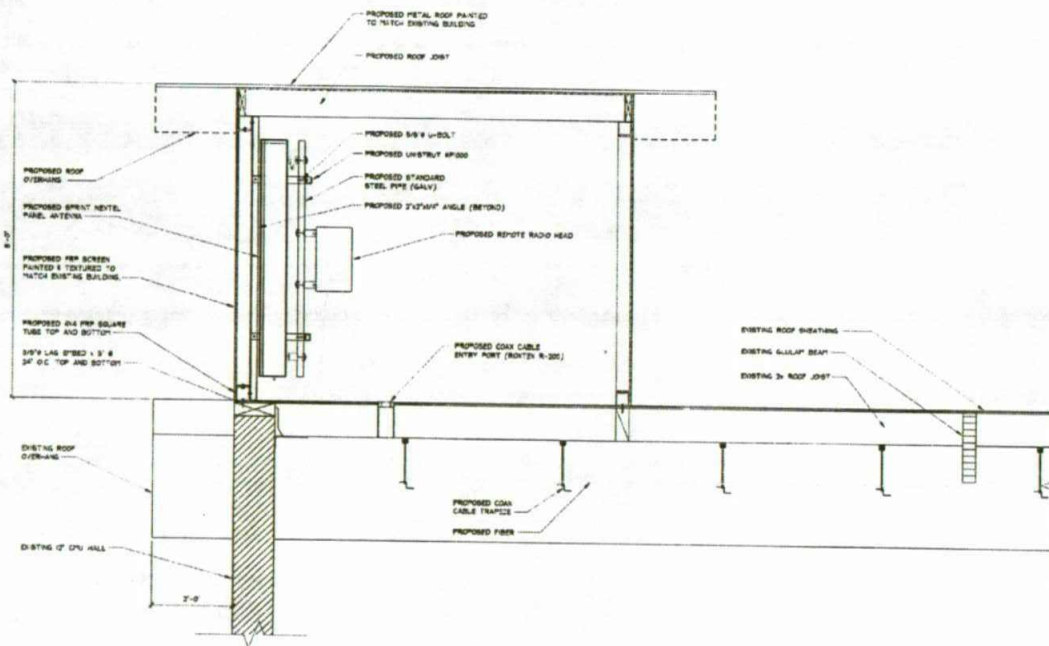
MITCHELL J. ARCHITECTURE, INC.  
6833 Camino Court, Suite 10  
San Diego, CA 92121  
(619) 594-1110 / (619) 594-1111 (Fax)

architecture **Mitchell J** architecture

Project No: A-401



| No. | Revised | By | Date     |
|-----|---------|----|----------|
| 1   | Initial | MM | 03/28/15 |
| 2   | Revised | MM | 03/28/15 |
| 3   | Revised | MM | 03/28/15 |
| 4   | Revised | MM | 03/28/15 |
| 5   | Revised | MM | 03/28/15 |
| 6   | Revised | MM | 03/28/15 |
| 7   | Revised | MM | 03/28/15 |
| 8   | Revised | MM | 03/28/15 |
| 9   | Revised | MM | 03/28/15 |
| 10  | Revised | MM | 03/28/15 |



01 **PROPOSED FRP CUPOLA SECTION**  
SCALE: 3/4" = 1'-0"

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

**EXHIBIT "A"**

Project Number: 283354  
Approval Date: 3.28.13  
Signed (1st Sheet): [Signature]

ORIGINAL

**PROPOSED FRP CUPOLA SECTION**

**SOUTH CREST**  
641 BOUNDARY ST.  
SAN DIEGO, CA 92113

**sprint**  
Together with NEXTEL

**Mitchell J. architecture**

| No. | Revisions/Draw        | Date     |
|-----|-----------------------|----------|
| 1   | Issue for City Review | 02-11-13 |
| 2   | Issue for City Review | 03-04-13 |
| 3   | Issue for City Review | 03-06-13 |
| 4   | Issue for City Review | 03-06-13 |
| 5   | Issue for City Review | 03-06-13 |
| 6   | Issue for City Review | 03-06-13 |
| 7   | Issue for City Review | 03-06-13 |
| 8   | Issue for City Review | 03-06-13 |

Project No: **D-502**

Project No:

# SOUTH CREST

SITE ID #SD25XC755

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

EXHIBIT "A" **Sprint**



Project Number: 283354 Together with NEXTEL

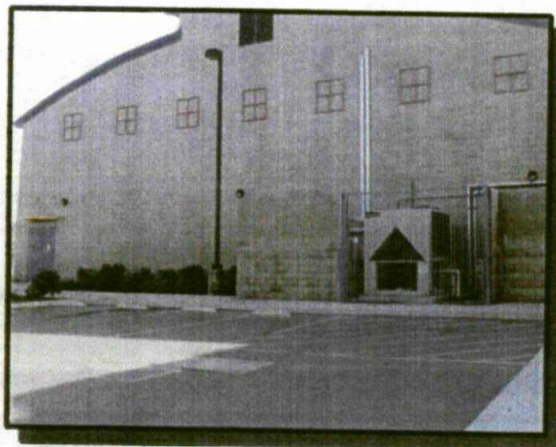
Approval Date: 3.28.2013

Signed (1st Sheet)

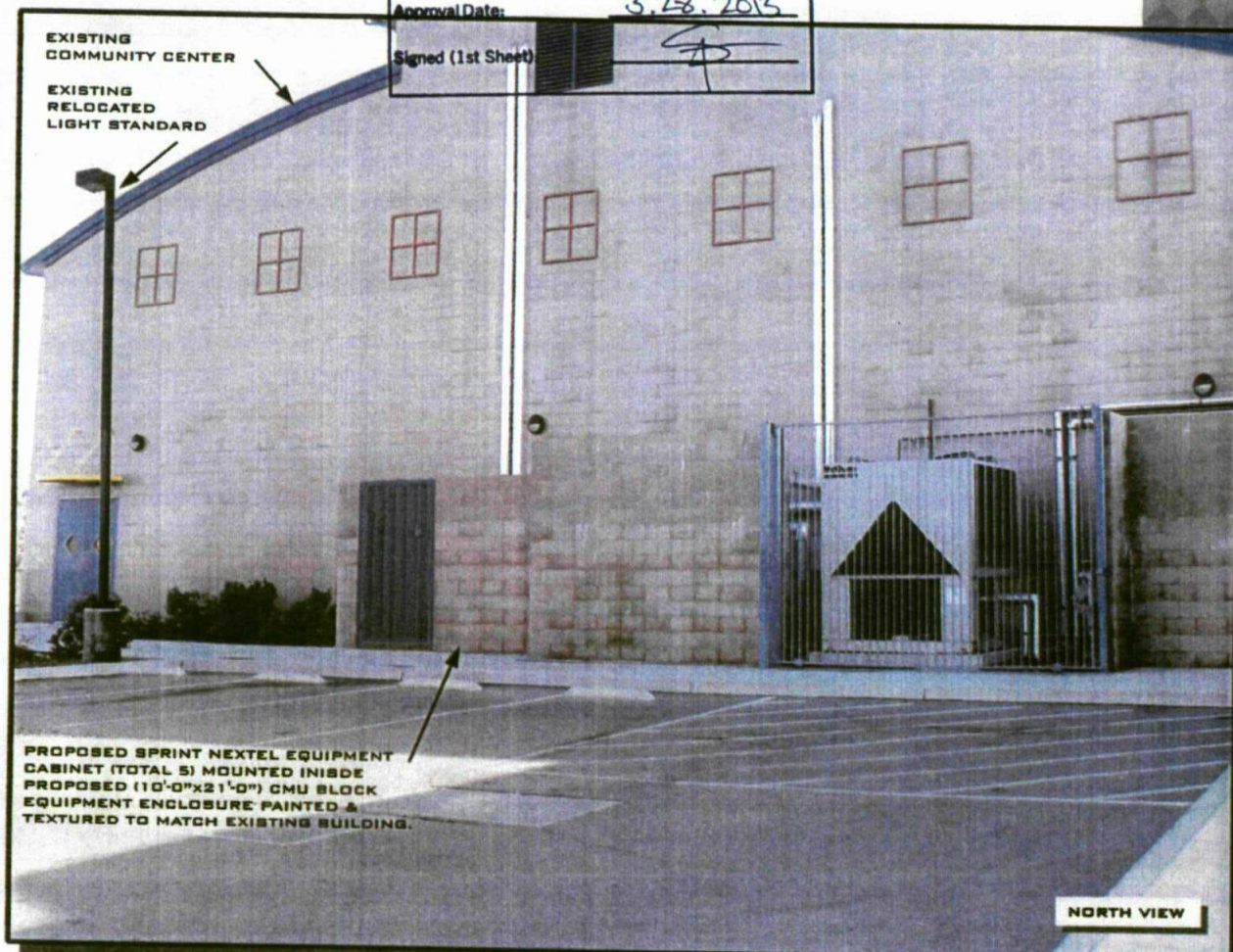


LOCATION

641 BOUNDARY ST.  
SAN DIEGO, CA 92113



EXISTING



PROPOSED SPRINT NEXTEL EQUIPMENT  
CABINET (TOTAL 5) MOUNTED INSIDE  
PROPOSED (10'-0"X21'-0") CMU BLOCK  
EQUIPMENT ENCLOSURE PAINTED &  
TEXTURED TO MATCH EXISTING BUILDING.

NORTH VIEW

PROPOSED

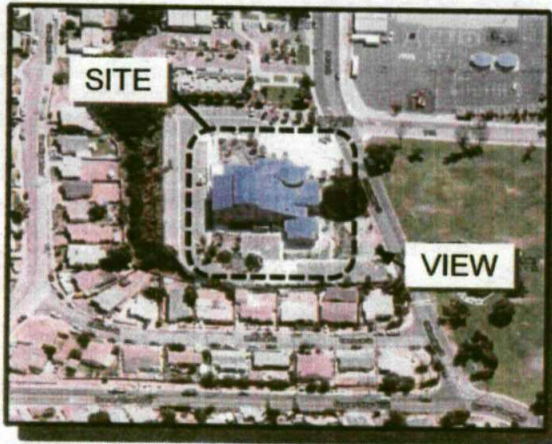
ORIGINAL

# SOUTH CREST

SITE ID #SD25XC755



Together with NEXTEL



LOCATION

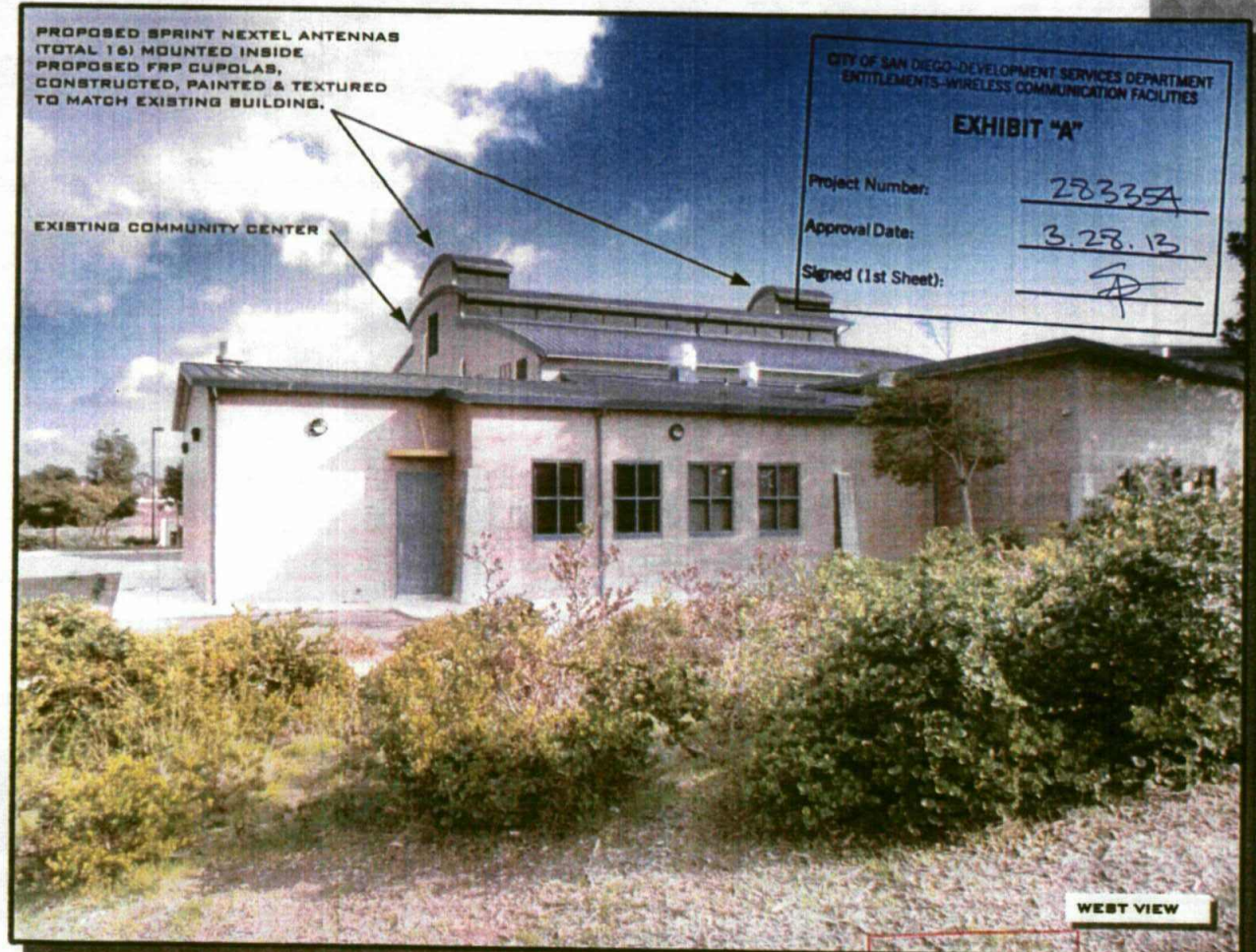
641 BOUNDARY ST.  
SAN DIEGO, CA 92112



EXISTING

PROPOSED SPRINT NEXTEL ANTENNAS  
(TOTAL 16) MOUNTED INSIDE  
PROPOSED FRP CUPOLAS,  
CONSTRUCTED, PAINTED & TEXTURED  
TO MATCH EXISTING BUILDING.

EXISTING COMMUNITY CENTER



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

## EXHIBIT "A"

Project Number:

28335A

Approval Date:

3.28.13

Signed (1st Sheet):

[Signature]

WEST VIEW

PROPOSED

ORIGINAL

**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**

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON JUN 21, 2013  
DOCUMENT NUMBER 2013-0391381  
Ernest J. Dronenburg, Jr., COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 8:52 AM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002766

**PLANNED DEVELOPMENT PERMIT NO. 1074240  
NEIGHBORHOOD USE PERMIT NO. 1074241  
SPRINT MOUNTAIN VIEW COMMUNITY CENTER PTS 283354  
PLANNING COMMISSION**

This Planned Development Permit No. 1074240 and Neighborhood Use Permit No. 1074241 is granted by the Planning Commission of the City of San Diego to **CITY OF SAN DIEGO**, Owner, and **SPRINT NEXTEL CORPORATION**, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0201, 126.0601, 141.0420, and 1519.0302. The site is located at 614 South Boundary Street in the Southeastern San Diego Planned District SF-5000 zone of the Southeastern San Diego Community Plan. The site is legally described as the land referred to herein is situated in the State of California, County of San Diego and is described as that portion of lots 14 through it inclusive in book 38 carriers there addition in the City of San Diego, County of San Diego, State of California according to map thereof no. 1557 filed in the Office of San Diego County recorders, April 8, 1915.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee for a Wireless Communication Facility (WCF), described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 28, 2013, on file in the Development Services Department.

The project shall include:

- a. A deviation to allow a WCF that consists of sixteen (16) antennas and eight (8) Remote Radio Heads (RRHs) concealed inside two cupolas on the roof of the existing community center, painted and textured to match the existing building above the Southeastern San Diego Planned District SF-5000 height limit of 30-feet; and
- b. A deviation to allow for an above ground 210-square foot equipment enclosure in City Park; and

- c. Building mounted cable tray, painted and textured as illustrated on the approved photosimulation; and
- d. 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 April 11, 2016.
2. This Planned Development Permit [PDP] and Neighborhood Use Permit [NUP] corresponding use of this site shall **expire on March 28, 2023**. Upon expiration of this Permit, 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.
3. No later than ninety (90) days prior to the expiration of this permit, the Permittee may submit a new application to the City Manager 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 Permittee to utilize this site for wireless communication purposes beyond the permit expiration date. Use of this permit 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 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 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 Owner/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 Owner/Permittee.

**ENGINEERING REQUIREMENTS:**

14. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
15. Prior to the issuance of any construction permit, the Permittee shall obtain a Nonexclusive Right-of-Way Use Agreement from the City of San Diego for the proposed work in the Boundary Street Right-of-Way.
16. Prior to the issuance of any construction permit, the Permittee shall obtain a Public Right-of-Way permit for the proposed work in the Boundary Street Right-of-Way.
17. Prior to the issuance of any construction permit, the Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
18. 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.
19. 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.
20. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code 66020.

**PARK AND RECREATION REQUIREMENTS:**

21. The Permittee/Provider shall ensure that the Park & Recreation Department review and approve construction plans prior to building permit issuance.

**PLANNING/DESIGN REQUIREMENTS:**

22. The WCF shall conform to the stamped approved plans and approved photosimulations prior to final Telecom Planning Inspection approval.



23. Photosimulations for the WCF shall be printed (not stapled) on the construction plans. This helps ensure that the construction team building the project constructs the project in compliance with the approved Exhibit "A."
24. Landscape and/or hardscape areas disturbed during the construction shall be repaired/replaced by the Permittee to the satisfaction of the Park & Recreation Department and the Development Services Department prior to final planning inspection.
25. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
26. The approved antenna dimensions are listed here: 72" by 11.8" by 7.9" and illustrated on the Exhibit "A" dated March 28, 2013. The Owner/Permittee shall not cause or allow the antennas located on the WCF to be different sizes than as listed here and as shown on Exhibit "A." Replacement of the antennas may occur in the future, subject to the Permittee notifying the Development Services Department prior to the replacement of the antennas and subject to the provision of providing an updated Radio Frequency (RF) report demonstrating compliance with the Federal Communication Commission's regulations in accordance with SDMC Section 141.0420(b)(1)(A) to the satisfaction of the Development Services Department.
27. Use of or replacement of any building façade or mechanical screen with FRP material for purposes of concealing antennas shall not result in any noticeable lines or edges in the transition to the original building. All FRP shall be painted and textured to match the original building/adjacent building surfaces.
28. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.
29. 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:**

- 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.

**ORIGINAL**

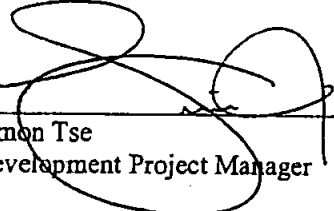
- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- 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  
March 28, 2013 and Resolution No. 4889-PC.**

**ORIGINAL**

Planned Development Permit No. 1074240  
Neighborhood Use Permit No. 1074241  
Date: March 28, 2013

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.

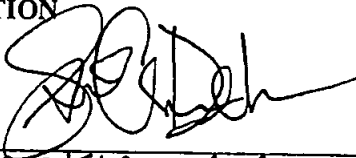
CITY OF SAN DIEGO  
Owner

By 

Name: \_\_\_\_\_

Title: Trustee in CDD

SPRINT NEXTEL CORPORATION  
Permittee

By 

Name: STEPHEN C. DEMARS

Title: CONSTRUCTION MANAGER LEAD

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

ORIGINAL

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On 10-11-13  
Date

before me, S. Anthony, Notary Public  
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

S. Anthony  
Signature of Notary Public

Place Notary Seal Above



## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: Planned Development Permit # 1074240

Document Date: 3-28-13 Number of Pages: 11 pages

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual
- ☐ Corporate Officer — Title(s): \_\_\_\_\_
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Individual
- ☐ Corporate Officer — Title(s): \_\_\_\_\_
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

ORIGINAL

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Diego }

On June 10, 2013 before me, Teresa Dolores Morse, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Scott Christopher Chadwick  
Name of Signer



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: Teresa Dolores Morse  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: PDP# 1074240 / NUP# 1074241 - Sprint Note

Document Date: March 28, 2013 Number of Pages: 1

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

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OF SIGNER  
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ORIGINAL

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

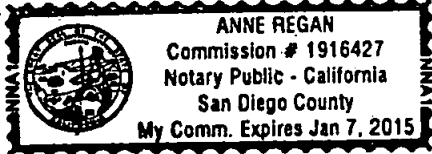
CIVIL CODE § 1189

State of California

County of San Diego

On April 5, 2013 before me, Anne Regan, Notary Public

personally appeared Stephen De Mars



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.

Place Notary Seal Above

Signature: Anne Regan

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

## Description of Attached Document

Title or Type of Document: PDP No. 1074240 / NUP No. 1074241

Document Date: March 28, 2013 Number of Pages: 7

Signer(s) Other Than Named Above: \_\_\_\_\_

## Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Corporate Officer — Title(s): \_\_\_\_\_
- ☐ Individual
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Corporate Officer — Title(s): \_\_\_\_\_
- ☐ Individual
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

**ORIGINAL**

PLANNING COMMISSION  
RESOLUTION NO. 4889-PC  
PLANNED DEVELOPMENT PERMIT NO. 1074240  
NEIGHBORHOOD USE PERMIT NO. 1074241  
**SPRINT MOUNTAIN VIEW COMMUNITY CENTER PTS NO. 283354**

WHEREAS, CITY OF SAN DIEGO, Owner and SPRINT NEXTEL CORPORATION, Permittee, filed an application with the City of San Diego for a permit to install a Wireless Communication Facility (WCF) that consists of sixteen (16) antennas and eight (8) Remote Radio Heads (RRHs) inside two rooftop cupolas, painted and textured to match the existing building. The equipment associated with this project is located inside a 210-square foot CMU equipment enclosure (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Planned Development Permit No. 1074240 and Neighborhood Use Permit No. 1074241).

WHEREAS, the project site is located at 614 South Boundary Street in the Southeastern San Diego Planned District SF-5000 zone of the Southeastern San Diego Community Plan;

WHEREAS, the project site is legally described as the land referred to herein is situated in the State of California, County of San Diego and is described as that portion of lots 14 through it inclusive in book 38 carriers there addition in the City of San Diego, County of San Diego, State of California according to map thereof no. 1557 filed in the Office of San Diego County recorders, April 8, 1915;

WHEREAS, on March 28, 2013, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1074240 and Neighborhood Use Permit No. 1074241 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on December 17, 2012, 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; NOW, THEREFORE,

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 March 28, 2013.

**FINDINGS:**

**Findings for Planned Development Permit - Section 126.0604**

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

The project site is located on the Mountain View Community Center at 614 South Boundary Street in the Southeastern San Diego Planned District SF-5000 zone of the Southeastern San Diego Community Plan. The property is zoned for institutional use in the Southeastern San Diego Community Plan and is surrounded by residential uses to the north, to the east and to the south.

The Mountain View Neighborhood Park is located northwest of the project site and Bakers Elementary School is located southwest of the project site

The proposed antennas and RRHs are completely concealed inside the two proposed 8-foot tall cupolas on the roof of the existing community center. The existing height of the community center is 42'-8". The overall height as a result of the proposed cupolas would be 50'-8". Fiberglass Reinforced Panel (FRP) materials are used to allow the antennas to operate without any interference while effectively camouflaging the antennas from the public view. As illustrated on the photosimulation, the cupolas were designed to match the existing rooftop features and colors. The equipment is located on the ground inside a 210-square foot CMU enclosure.

The Southeastern San Diego Community Plan does not address WCF's as a specific land use, however, the General Plan states that the facilities should be designed to be "aesthetically pleasing and respectful to the neighborhood context." The equipment enclosure has been designed to match the adjacent generator enclosure and is located on the northern portion of the community center. Access to and from the park would not be affected by the new enclosure. As a result, the proposed WCF design would be compatible with the existing park use and respectful to the neighborhood context.

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

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." A statement has been included on the plans indicating that the WCF complies with federal standards for radio frequency in accordance with Telecommunication Act of 1996 and subsequent amendments and any other requirements imposed by state or federal regulatory agencies. The Permittee submitted a Radio Frequency Study concluding that the FCC standards are being met.

**3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.**

The WCF is located on the Mountain View Community Center inside two cupolas designed to match the existing rooftop features and colors. As designed, the project complies with Land Development Code Section 141.0420 with the exception of the above ground equipment enclosure pursuant to LDC Sections 141.0420(i)(1)(B) and 141.0420(i)(1)(C). Due to concerns with potential impacts related to park activities, staff can support the proposed deviation for an above ground enclosure. The excavation required for an enclosure of this size would eliminate significant landscaping as opposed to the current enclosure design. In terms of park activity-related concerns, undergrounding the equipment would require heavy machinery and possibly impact access to the park for an extended period of time. This inconvenience can be avoided with an above ground enclosure, which would preserve park activities with minimal impacts, resulting in a more desirable project.

Additionally, the proposed rooftop cupolas exceed the SESDPD-SF-5000 height limit of 30-feet, resulting in a height deviation. The proposed height can also be supported by staff due to the overall design to conceal the antennas and RRHs inside a stealth solution. To achieve a similar coverage objective, multiple vertical structures would be required which may impact useable park space and would not be supported by staff. As illustrated in the photosimulations, both the equipment enclosure and the rooftop cupolas have been designed to blend in with the existing community center's features and colors to minimize all potential visual impacts, and would result in a more desirable project than would be achieved if designed in strict conformance with the Wireless Communication Facilities Regulation and the SESDPD-SF-5000 zone.

#### **Findings for Neighborhood Use Permit – Section 126.0205**

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

The project site is located on the Mountain View Community Center at 614 South Boundary Street in the Southeastern San Diego Planned District SF-5000 zone of the Southeastern San Diego Community Plan. The property is zoned for institutional use in the Southeastern San Diego Community Plan and is surrounded by residential uses to the north, to the east and to the south. The Mountain View Neighborhood Park is located northwest of the project site and Bakers Elementary School is located southwest of the project site

The proposed antennas and RRHs are completely concealed inside the two proposed 8-foot tall cupolas on the roof of the existing community center. The existing height of the community center is 42'-8". The overall height as a result of the proposed cupolas would be 50'-8". Fiberglass Reinforced Panel (FRP) materials are used to allow the antennas to operate without any interference while effectively camouflaging the antennas from the public view. As illustrated on the photosimulation, the cupolas were designed to match the existing rooftop features and colors. The equipment is located on the ground inside a 210-square foot CMU enclosure.

The Southeastern San Diego Community Plan does not address WCF's as a specific land use, however, the General Plan states that the facilities should be designed to be "aesthetically pleasing and respectful to the neighborhood context." The equipment enclosure has been designed to match the adjacent generator enclosure and is located on the northern portion of the community center. Access to and from the park would not be affected by the new enclosure. As a result, the proposed WCF design would be compatible with the existing park use and respectful to the neighborhood context.

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

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." A statement has been included on the plans indicating that the WCF complies with federal standards for radio frequency in accordance with Telecommunication Act of 1996 and subsequent amendments and any other requirements imposed by state or federal regulatory agencies. The Permittee submitted a Radio Frequency Study concluding that the FCC standards are being met.

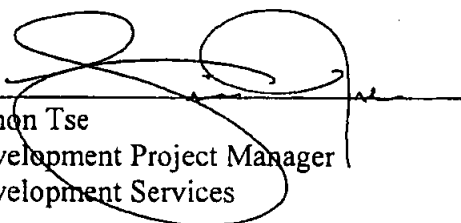
3. **The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The proposed WCF has been designed to comply with the SESDPD-SF-5000 zone and the Wireless Communication Facility Regulation Section 141.0420 with exception to the 30-foot height limit and the requirement to underground equipment enclosures within City parks. The proposed 8-foot tall cupolas are located on the roof of the existing community center with an overall height of 50'-8" above grade. The cupolas were designed to incorporate the existing roof features and colors as directed by the Park & Recreation Department. Pursuant to LDC Section 1519.0302, developments within the SESDPD-SF-5000 zone contain a 30-foot height limit. The proposed height deviation can also be supported by staff due to the overall design to conceal the antennas and RRHs with a stealth solution.

Additionally, per Land Development Code sections 141.0420(i)(1)(B) and 141.0420(i)(1)(C), equipment enclosures shall be placed underground. Due to concerns with potential impacts to park activities, staff can support the proposed deviation for an above ground enclosure. The excavation required for an enclosure of this size would eliminate significant landscaping as opposed to the current enclosure design. In terms of park activity-related concerns, undergrounding the equipment would require heavy machinery and possibly impact access to the park for an extended period of time. This inconvenience can be avoided with an above ground enclosure, which would preserve park activities with minimal impacts.

Overall, the WCF design complies with LDC Sections 141.0420(g)(1), 141.0420(g)(2) and 141.0420(g)(3), which states the following, "Wireless communication facilities shall utilize the smallest least visually intrusive antennas, components and other necessary equipment." "The applicant shall use all reasonable means to conceal or minimize the visual impacts of the wireless communication facilities through integration. Integration with existing structures or among other existing uses shall be accomplished through the use of architecture, landscape and siting solutions." "The wireless communication facility's equipment shall be located within an existing building envelope, whenever possible. If a new equipment enclosure is necessary, it shall be of a height minimally necessary to accommodate the equipment, not to exceed 250 square feet."

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Planned Development Permit No. 1074240 and Neighborhood Use Permit No. 1074241 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Planned Development Permit No. 1074240 and Neighborhood Use Permit No. 1074241 a copy of which is attached hereto and made a part hereof.

  
Simon Tse  
Development Project Manager  
Development Services

Adopted on: March 28, 2013

Internal Order No. 24002766

**Exhibit C:**  
**Equipment at the Site**



**Exhibit D:**  
**Memorandum of Lease Form**

Recording Requested By and  
When Recorded Return To:  
Sprint PCS Assets, L.L.C.  
Attn: Kevin Klein  
330 Commerce, Suite 100  
Irvine, CA  
92602

APN#  
Site #

**MEMORANDUM OF LEASE**

THIS MEMORANDUM OF LEASE is effective as of \_\_\_\_\_, 20\_\_ (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 \_\_\_\_\_ (*LESSEE’S name and state of incorporation*) (LESSEE), with an office at \_\_\_\_\_, entered into that certain CITY OF SAN DIEGO TELECOMMUNICATIONS LEASE (Lease) dated \_\_\_\_\_, 20\_\_, 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 \_\_\_\_\_ ( ) years and commenced on \_\_\_\_\_, 20\_\_.
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: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*APPROVED AS TO FORM AND LEGALITY:*  
JAN I. GOLDSMITH, CITY ATTORNEY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit E: Interference Protection Requirements**

- a. Interference. Prior to the Effective Date or at anytime during the Term of this Lease, LESSEE may be required to provide an intermodulation report (Report) to CITY. This Report shall include the calculation parameters used to compile the Report, all intermodulation “hits,” a brief description of the results of the intermodulation calculations; a list of possible interference situations that may result from the proposed Communications Equipment; transmission frequencies that are currently being operated at the Site, and similar or other relevant data from other LESSEEs/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 LESSEEs/lessees/users at the Site of the tests and details of the tests, at least fourteen calendar days in advance of the test. A listing of all LESSEEs/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 LESSEE/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 LESSEEs/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 LESSEE/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 LESSEEs/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 LESSEEs/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 LESSEE/lessee/user participating in the test and a list of those LESSEEs/lessees/users who did not respond.
  - (3) If a notified LESSEE/lessee/user fails to send a qualified representative to observe and participate in the tests, it will be assumed by CITY that the LESSEE/lessee/user has assured itself that their operations will not be affected.
  - (4) It shall be the responsibility of LESSEE to make complete arrangements and conduct all tests in accordance with applicable Federal/FCC Rules and Regulations.

c. On-The-Air Tests - Technical Details

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

- (1) The LESSEE'S transmitting and/or receiving equipment shall be of the type planned for final use at the Site.
  - (a) The transmitted RF power shall be the maximum to be used and authorized at the Site.
  - (b) On-the-air transmitter tests shall include the use of full allowable modulation.
  - (c) Antenna height(s), location(s) and type(s) shall be the same or comparable to the final installation plan.

- (2) Tests shall include on-the-air operation of all participating transmitter(s) and receiver(s) in all possible combinations with the LESSEE'S electronic equipment.
- (3) All tests shall include testing with all frequencies planned for use by the LESSEE at the Site.

d. Radio Frequency Interference to City Radio Equipment

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

- (1) Detectable or measurable received intermodulation;
- (2) Audio distortion or noise; and
- (3) Receiver desensitization in excess of 3.0 dB with respect to 12dB SINAD test.

e. Modifications to Equipment

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

f. Resulting Interference

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

## TECHNICAL DATA SUMMARY

One form to be completed per transmitter and supplied to all LESSEES/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 LESSEEs/lessees/users operating at the Site. Bottom section is to be completed by each existing Site LESSEE/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 \_\_\_\_\_

LESSEE/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 F: 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 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 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 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 G: 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 800-357-7641**.

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 calendar days, provide the other party with written notice of the new contact information, in accordance with this Lease.

## **Exhibit H: Water Department Site Security Procedures**

### **1. PURPOSE**

To establish procedures that will be used to provide access to Water Department facilities for all telecommunication service providers.

### **2. AUTHORITY**

2.1 Deputy Director, Water Operations Division

2.2 Real Estate Asset Department Lease Agreement for each specific property

### **3. DEFINITION**

Access: the right, possibility, or means to entering or approach a place.

SCADA: Supervisory Control and Data Acquisition of the water distribution system through the use of sensors, telemetry, a staffed command center, and records storage.

SWIM: Sewer-Water-Infrastructure-Management; a computerized maintenance management system.

### **4. POLICY**

Procedures listed below will be used to provide access to Water Department facilities for all telecommunication service providers.

Specific contract lease agreements with the telecommunication service providers may contain different requirements and restrictions regarding access to Water Department facilities. If the requirements within an existing agreement conflicts with the requirements herein, then the requirements within the lease agreement shall take precedence.

Non-emergency and emergency procedures are listed below and will be used.

### **5. RESPONSIBILITIES**

5.1 System Operations, Water Operations Division

- a. The Operations District Manager is responsible to provide direction and instruction to SCADA operators in order to ensure performance of the access procedure written below.
- b. The Reservoir/Plant/Pump Maintenance District Manager is responsible to provide direction and instruction to the Planner/Scheduler, and to field crews, in order to ensure performance of the access procedure written below.

## 5.2 Water Operations Division Employees

- a. Employees of the water operations division shall forward requests for access to SCADA, according to the procedure below.

## 5.3 Real Estate Asset Department

- a. Employees of the Real Estate Asset Department shall forward requests for access to SCADA, according to the procedure below.

# 6. PROCEDURE

## 6.1 Non-Emergency Access Procedure

- a. Telecommunication service providers will be required to call the SCADA Operator at (619) 527-7604 or (619) 527-7630 at least two days in advance to schedule their required access. At the time of the request, the provider will give the SCADA Operator the following: 1) Location for access; 2) Date and start time; 3) Expected duration of access; 4) List of names of those employees who will be working at the site; and 5) Contact name and phone number to confirm information or reschedule access. The information given by the provider should be logged onto the Telecom Service Provider Access Form (see attached).
- b. The SCADA Operator will route the Telecom Service Provider Access Form via e-mail or fax, to the System Operations Planner/Scheduler. For after hours access the SCADA Operator will schedule the stand-by crew using the procedures 6.2a and 6.2b below.
- c. The Planner/Scheduler will issue a SWIM service request (SR) to assign a crew to escort and supervise the access. The Planner/Scheduler will provide the crew with the Telecom Service Provider Access Form authorizing visitor entry into the facility. The Planner/Scheduler has the discretion to verify the access request and refuse entry (Please note that access should only be denied if access request is not verified by contact).
- d. The dispatched crew shall verify all visitors against the Telecom Service Provider Access Form by checking for valid ID and company issued ID card. Only those employees listed on the Form should be allowed to access the facility.
- e. The dispatched crew shall complete the Telecom Service Provider Access Form and return it to the Planner/Scheduler following the completion of the access.

## 6.2 Emergency Access Procedure:

- a. Telecommunication service providers will be required to call the SCADA Operator at (619) 527-7604 or (619) 527-7630 to request emergency access. At the time of the request, the provider will give the SCADA Operator the information as required in 6.1a above. The information given by the provider should be logged onto the Telecom Service Provider Access Form (see attached). The SCADA Operator has the discretion to verify the access request and refuse entry (Please note that access should only be denied if access request is not verified by contact).
- b. The SCADA Operator will contact the Planner/Scheduler during normal working hours or dispatch a stand-by crew during non-normal working hours. During non-normal hours, the SCADA Operator will issue a SWIM service request (SR) to assign the stand-by crew to allow entry and to supervise the visitors. The SCADA Operator will provide the crew with the Telecom Service Provider Access Form authorizing visitor entry into the facility.
- c. The dispatched crew shall verify all visitors against the Telecom Service Provider Access Form by checking for valid ID and company issued ID card. Only those employees listed on the Form should be allowed to access the facility.
- d. The dispatched crew shall complete the Telecom Service Provider Access Form and return it to the Planner/Scheduler following the completion of the access.



# Telecom Service Provider Access Form

|                           |                                |                    |  |
|---------------------------|--------------------------------|--------------------|--|
| Telecom Service Provider: |                                | Date:              |  |
| Access Location:          | Access Date:                   | Access Time:       |  |
| Contact Name:             |                                | Expected Duration: |  |
| Contact Phone Number:     | Was Contact Verified: yes / no | Initials:          |  |

| Employee Name: | Company: | ID Verified: |
|----------------|----------|--------------|
|                |          |              |
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|                |          |              |

.....

## To Be Completed By Attending Crew

|              |             |           |
|--------------|-------------|-----------|
| Access Date: | Start Time: | End Time: |
| Comments:    |             |           |
|              |             |           |
|              |             |           |
|              |             |           |

# EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE



For additional information, contact:

**CITY OF SAN DIEGO  
EQUAL BENEFITS PROGRAM**

202 C Street, MS 9A, San Diego, CA 92101  
Phone (619) 533-3948 Fax (619) 533-3220

## COMPANY INFORMATION

Company Name: Sprint PCS Assets LLC  
Company Address: 330 Commerce Suite 100  
Irvine CA 92602

Contact Name:  
Contact Phone:  
Contact Email:

## CONTRACT INFORMATION

Contract Title: SD25XC755

Start Date: Feb 01 2014

Contract Number (if no number, state location): 641 South Boundary St.

End Date: JAN 31, 2024

## SUMMARY OF EQUAL BENEFITS ORDINANCE REQUIREMENTS

The Equal Benefits Ordinance [EBO] requires the City to enter into contracts only with contractors who certify they will provide and maintain equal benefits as defined in San Diego Municipal Code §22.4302 for the duration of the contract. To comply:

- Contractor shall offer equal benefits to employees with spouses and employees with domestic partners.
  - Benefits include health, dental, vision insurance; pension/401(k) plans; bereavement, family, parental leave; discounts, child care; travel/relocation expenses; employee assistance programs; credit union membership; or any other benefit.
  - Any benefit not offered to an employee with a spouse, is not required to be offered to an employee with a domestic partner.
- Contractor shall post notice of firm's equal benefits policy in the workplace and notify employees at time of hire and during open enrollment periods.
- Contractor shall allow City access to records, when requested, to confirm compliance with EBO requirements.
- Contractor shall submit *EBO Certification of Compliance*, signed under penalty of perjury, prior to award of contract.

NOTE: This summary is provided for convenience. Full text of the EBO and its Rules are posted at [www.sandiego.gov/administration](http://www.sandiego.gov/administration).

## CONTRACTOR EQUAL BENEFITS ORDINANCE CERTIFICATION

Please indicate your firm's compliance status with the EBO. The City may request supporting documentation.

- ☒ I affirm compliance with the EBO because my firm (*contractor must select one reason*):
- ☒ Provides equal benefits to spouses and domestic partners.
  - ☐ Provides no benefits to spouses or domestic partners.
  - ☐ Has no employees.
  - ☐ Has collective bargaining agreement(s) in place prior to January 1, 2011, that has not been renewed or expired.
- ☐ I request the City's approval to pay affected employees a **cash equivalent** in lieu of equal benefits and verify my firm made a reasonable effort but is not able to provide equal benefits upon contract award. I agree to notify employees of the availability of a cash equivalent for benefits available to spouses but not domestic partners and to continue to make every reasonable effort to extend all available benefits to domestic partners.

It is unlawful for any contractor to knowingly submit any false information to the City regarding equal benefits or cash equivalent associated with the execution, award, amendment, or administration of any contract. [San Diego Municipal Code §22.4307(a)]

Under penalty of perjury under laws of the State of California, I certify the above information is true and correct. I further certify that my firm understands the requirements of the Equal Benefits Ordinance and will provide and maintain equal benefits for the duration of the contract or pay a cash equivalent if authorized by the City.

Kerompton  
Name/Title of Signatory

Kerompton  
Signature

1/24/14  
Date

## FOR OFFICIAL CITY USE ONLY

Receipt Date: 2/17/2014 EBO Analyst: [Signature] ☒ Approved ☐ Not Approved – Reason: