



**CITY OF SAN DIEGO**  
**MASTER USE AND OCCUPANCY PERMIT**

**between**

**THE CITY OF SAN DIEGO**

**and**

**FREEDOM TELECOMMUNICATIONS LLC DBA WILCON**

**for**

**Distributed Antenna System Installations on Various Poles**

**CITY OF SAN DIEGO  
MASTER DISTRIBUTED ANTENNA SYSTEM  
USE AND OCCUPANCY PERMIT**

This CITY OF SAN DIEGO MASTER USE AND OCCUPANCY PERMIT ("Master Permit") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and FREEDOM TELECOMMUNICATIONS LLC DBA WILCON, a Delaware limited liability company ("PERMITTEE"), 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 Master Permit is signed by the San Diego City Attorney.

**RECITALS**

A. CITY is the record owner of certain public rights-of-way within the City of San Diego.

B. PERMITTEE desires to erect, maintain and operate within the CITY'S public rights-of-way Distributed Antenna System ("DAS") wireless communication facilities, including utility lines, transmission lines, electric light poles to support antennas, electronic equipment, and transmitting and receiving antennas, which facilities are more fully defined below as "Communications Equipment."

C. PERMITTEE represents that it is designated by the California Public Utilities Commission ("PUC") as a "Competitive Local Exchange Carrier" ("CLEC"); and PERMITTEE further represents that, pursuant to that designation, PERMITTEE qualifies as a "Public Utility" under the California Public Utilities Code.

D. CITY is willing to grant PERMITTEE this Master Permit for the right to use CITY-owned light poles located in the public right-of way for the construction, operation and maintenance of the Communications Equipment (defined below), including attaching the Communications Equipment to CITY-owned Street Light Poles in order to provide better service to wireless customers.

E. Notwithstanding anything to the contrary contained in this Permit, no provision contained herein shall be construed to mean that the PERMITTEE is paying a use fee for any ground space portion of the public right-of-way.

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

**1. DEFINITIONS.**

As used in this Master Permit, the terms listed below are defined as follows:

- 1.1. "Approved Site" – a Site (defined below) for which all approvals required for construction or installation to commence have been obtained.

- 1.2. “Communications Equipment” – includes, but is not limited to, PERMITTEE’S omnidirectional antennas, mounting brackets, equipment enclosures, AC disconnects, flexible metal conduits, grounding plates, grounding wires, grounding pipes, coils, NEMA boxes, and fiber optic cables, more particularly described and depicted in Exhibit B as may be updated from time to time at CITY’S sole discretion.
- 1.3. “Emergency” – imminent danger to the public health, safety or welfare or property.
- 1.4. “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, and all types of petroleum-related substances and their chemical constituents.
- 1.5. “Permit Areas” – up to 100 various CITY-owned Sites (defined below), more particularly depicted in Exhibit A and in Exhibit B as updated from time to time.
- 1.6. “PERMITTEE’S Operations” – PERMITTEE’S development, occupancy, use, and/or maintenance of the Permit Areas.
- 1.7. “Site” – a Street Light Pole (defined below) or Traffic Signal where the Communications Equipment is installed pursuant to this Master Permit, each Site being depicted in Exhibit B as updated from time to time at CITY’S sole discretion.
- 1.8. “Street Light Pole” – any concrete, fiberglass, metal, or wooden pole that has a mast arm for electrolier support.
- 1.9. “Traffic Signal” – any metal pole that has traffic-controlling lights on it.

## **2. USE OF PERMIT AREAS.**

PERMITTEE shall use the Permit Areas solely for the purposes, with proper permits and approvals obtained, of installing, constructing, modifying, operating, maintaining, and removing, all at PERMITTEE’S sole cost and expense, the Communications Equipment (“Permit Use”) only as depicted in Exhibit B.

- 2.1. Primary Purpose of Street Light Poles and Traffic Signals. Any Street Light Pole or Traffic Signal is for the primary purpose of providing lighting, but may have the secondary purpose of accommodating PERMITTEE’S Operations at the Permit Areas.
- 2.2. Other Uses. PERMITTEE shall not operate the Communications Equipment or use the Permit Areas for other related or incidental activities of any kind without CITY’S prior written consent, which consent shall be in CITY’S sole discretion. Communications Equipment installed on a Traffic Signal shall not interfere with the operation of the Traffic Signal, or cause visual impairment, distraction, or confusion to motorists.
- 2.3. No Nuisance. PERMITTEE shall not use the Permit Area in any manner which creates a

nuisance, as defined in California Civil Code section 3479.

- 2.4. City Use. PERMITTEE shall allow CITY to use a portion of the PERMITTEE's dark fiber infrastructure for public, non-commercial uses, including, without limitation, as a backhaul for WiFi access for CITY-property and CITY operations in accordance with the terms and conditions set forth in that certain Lease Agreement for Dark Fiber between CITY and PERMITTEE entered into as an even date herewith, and attached as Exhibit F. If there is a conflict between this Master Permit and the Lease Agreement for Dark Fiber, the terms, conditions and obligations of this Master Permit will control. The value of the use of the dark fiber is reflected in a reduction of the Annual Use Fee for Space on City-owned Light Poles as shown in Section 6 of this Master Permit.
- 2.5. Nothing contained in this Master Permit shall be construed as a limitation, restriction or prohibition against CITY entering into agreements with other parties regarding the use of the Permit Areas, Sites or other facilities or the CITY issuing permits for the use of its rights-of-way.

### **3. RIGHT TO ENTER AND OCCUPY.**

Subject to the terms and conditions of this Master Permit, CITY hereby grants permission to PERMITTEE, its officers, employees, agents, and contractors to enter upon and occupy the Permit Areas solely for the purpose of the Permit Use.

- 3.1. License Only. This Master Permit is a license to use CITY-owned property. It is not a lease.

### **4. TERM.**

The term of this Master Permit ("Term") shall not exceed ten (10) years, commencing on the Effective Date. "Permit Year" shall mean each twelve (12) month period during the Term, commencing on the month and day of the Effective Date and continuing to the same month and day of the following year, minus one (1) calendar day.

- 4.1. No Holdover. PERMITTEE may not continue in possession of the Permit Areas past the expiration or earlier revocation or termination of this Master Permit. 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").

### **5. PERMIT PROCESSING FEE.**

Upon execution of this Master Permit by PERMITTEE, PERMITTEE shall pay CITY a one-time, non-refundable permit processing fee in the amount of \$4,920 (Four Thousand Nine Hundred Twenty Dollars).

## 6. ANNUAL USE FEE FOR SPACE ON CITY-OWNED LIGHT POLES.

PERMITTEE shall pay to CITY an annual use fee in the following amounts for all Approved Sites, calculated from the date all required approvals were obtained, regardless of whether the Site was physically constructed or installed:

|                        | <u>Poles 1-80 per Site</u>              | <u>Poles 81-100 per Site</u> |
|------------------------|-----------------------------------------|------------------------------|
| Permit Year One        | \$4,000.00                              | \$3,750.00                   |
| Permit Year Two        | \$4,140.00                              | \$3,881.25                   |
| Permit Year Three      | \$4,284.90                              | \$4,017.09                   |
| Permit Year Four       | \$4,434.87                              | \$4,157.69                   |
| Permit Year Five       | \$4,590.09                              | \$4,303.21                   |
| Permit Years Six - Ten | Market Use Fee Adjustments by Appraisal |                              |

The above use fee schedule reflects an annual escalation equal to three and one half percent (3.5%) above the annual use fee for each preceding Permit Year.

CITY shall reduce the amount of the Annual Use Fee owed by PERMITTEE for the use of the PERMITTEE'S dark fiber infrastructure pursuant to the terms of the Lease Agreement for Dark Fiber. For example, if PERMITTEE had 80 Approved Sites in Permit Year one, the Annual Use Fee owed would be \$320,000.00. If all City Fiber (as that term is defined in the Lease Agreement for Dark Fiber) was delivered for the entire year, the Annual Use Fee due would be reduced by \$155,635.20, leaving a balance of \$164,364.80 that PERMITTEE shall pay.

- 6.1 Market Annual Use Fee Adjustments by Appraisal. At the end of the fifth Permit Year, the Annual Use Fee for the Permit Years Six through Ten shall be determined by an appraisal, to be effective as of the first day of the sixth Permit 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 use fees for telecommunications sites, properties, and leases ("Qualified Appraiser") and shall be in conformance with Uniform Standards of Professional Appraisal Practice. In establishing the market use fee for the Sites, the Qualified Appraiser shall base the valuation on an appraisal not more than six (6) months old, as of the Adjustment Date, prepared by surveying comparable market fees for similar licensed facilities in Southern California or other comparable market areas. If the appraisal is not completed prior to the Adjustment Date, PERMITTEE shall continue to pay the Annual Use Fee in accordance with the then-existing Permit rates, and the adjustment, when determined, shall be retroactive to the Adjustment Date. Any deficiency shall be paid by PERMITTEE to CITY within thirty (30) calendar days after determination of the new use fee rate. In no event shall the adjusted use fee be less than the use fee in effect immediately prior to the Adjustment Date. CITY may determine that no market value adjustment is necessary and waive the requirement for an appraisal, in which case, the Annual Use Fee for the remaining five (5) Permit Years shall be set at three

and one half percent (3.5%) above the Annual Use Fee for each preceding Permit Year.

- 6.2 Time and Place of Payment. The Annual Use Fee is due in arrears on or before the first day of each Permit Year during the Term (collectively referred to hereinafter as the "Annual Payment"). The Annual Use Fee check shall be made payable to "City Treasurer" and delivered to the Office of the City Treasurer, Civic Center Plaza Building, 1200 Third Avenue, First Floor, San Diego, CA 92101, or mailed with an invoice to:

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

PERMITTEE shall include CITY'S customer account number for PERMITTEE on each of the checks used for the Annual Payment so CITY can apply the Annual Payment to the appropriate account. The place of payment may be changed at any time by CITY upon thirty (30) calendar days written notice to PERMITTEE. Mailed Annual Payments shall be deemed paid upon the date the payments are postmarked by the postal authorities. If a postmark is illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. PERMITTEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

- 6.3 Delinquent Payments. If PERMITTEE fails to pay the Annual Payment when due, PERMITTEE shall pay, in addition to the unpaid Annual Payment, five percent (5%) of the delinquent Annual Payment. If any portion of the Annual Payment is still unpaid fifteen (15) calendar days after the first day of the Permit Year, PERMITTEE shall pay an additional five percent (5%), for a total of ten percent (10%) of the delinquent Annual Payment, which is agreed by the Parties to be appropriate to compensate CITY for loss resulting from fee 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 Annual Use Fee be less than \$250 (two hundred fifty dollars). Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of PERMITTEE'S default with respect to late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity.
- 6.4 Yearly List of Approved Sites. No later than sixty (60) days prior to the first day of each Permit Year, PERMITTEE shall furnish to CITY a complete list of all Approved Sites under this Master Permit, which shall include at a minimum the location of each Approved Site, the date that the required approvals were obtained, and the date that construction was completed, which list CITY will use to compute the Annual Use Fee that is due on or before the first day of each Permit Year. Computation of the Annual Use Fee will be calculated based on a 30-day month for all calendar months. For example, a site installed on the fifteenth day of February, will be considered installed for 15 days of that month, as will a site installed on the fifteenth day of August. Failure to provide the Yearly List of Installed Sites may result in penalties for delinquent Annual Payment and shall constitute

a breach of this Permit.

- 6.5 Financial Records. PERMITTEE shall maintain, in accordance with generally accepted accounting practices, complete and accurate financial records showing any taxes, levies, fees, retail discounts, promotions, non-collectable amounts, refunds, rebates, and non-operating revenues. PERMITTEE shall make all such financial records available to CITY for inspection at a reasonable location and time so that CITY can determine PERMITTEE'S compliance with this Master Permit. PERMITTEE shall maintain all such financial records for a minimum period of five (5) years past the expiration or earlier revocation or termination of this Master Permit. This section shall survive the expiration or earlier revocation or termination of this Master Permit.

## 7. INSURANCE.

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

- 7.1 Types of Insurance: At all times during the term of this Master Permit, the PERMITTEE 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 PERMITTEE'S automobiles including owned, hired and non-owned automobiles, the PERMITTEE 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. PERMITTEE shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of PERMITTEE'S insurable property constructed and/or placed on the Permit Areas by PERMITTEE under this Master Permit in an amount to cover 100 percent (100%) of the replacement cost. PERMITTEE shall deliver a certificate of such insurance to READ.
  - d. Workers' Compensation. For all of the PERMITTEE employees who are subject to this Master Permit and to the extent required by the applicable state or federal law, the PERMITTEE 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 PERMITTEE shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.
- 7.2 Deductibles: All deductibles on any policy shall be the responsibility of the PERMITTEE and shall be disclosed to the CITY at the time the evidence of insurance is provided.
- 7.3 Acceptability of Insurers: Except for the State Compensation Insurance Fund, all insurance required by this Master Permit shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.
- 7.4 Modification: To assure protection from and against the kind and extent of risk existing with PERMITTEE'S Operations, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY'S reasonable re-evaluation of risk levels related to the Site.
- 7.5 Accident Reports: PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons on the Permit Areas or otherwise related to the PERMITTEE'S Operations. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- 7.6 Required Endorsements: The following endorsements to the policies of insurance are required to be provided to CITY before any work is initiated under this Master Permit.
- 7.6.1.1 Commercial General Liability Insurance Endorsements:

- i. Additional Insured: To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by 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 PERMITTEE'S insurance and shall not contribute to it.
- iii. Severability of Interest. The policy or policies must be endorsed to provide that the PERMITTEE'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

7.6.1.2 Automobile Liability Insurance Endorsements:

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

**8. PERMITTEE'S RISK.**

PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE'S Operations and any damages to the improvements on, under, or in the vicinity of the Permit Areas resulting directly or indirectly thereby.

## **9. ACCEPTANCE OF PERMIT AREAS.**

By signing this Master Permit, PERMITTEE represents and warrants that it has independently inspected the Permit Areas and made all tests, investigations, and observations necessary to satisfy itself as to the condition of the Permit Areas and their suitability for the Permit Use. PERMITTEE further represents and warrants that PERMITTEE is not relying on any representation by CITY as to the condition of the Permit Areas or their suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations, and observations of the Permit Areas in entering into this Master Permit. PERMITTEE accepts the Permit Areas in their current condition, and acknowledges and agrees that CITY has fulfilled all obligations CITY may have had to improve, modify, repair, replace, alter, or otherwise develop the Permit Areas prior to the Effective Date. PERMITTEE shall not hold CITY responsible for any defects, whether apparent or latent, within the Permit Areas. PERMITTEE accepts and assumes all risk of harm to all persons and property, including, without limitation, PERMITTEE'S employees, from any defects within the Permit Areas, and shall be solely responsible therefor. PERMITTEE has been given the opportunity to investigate the Permit Areas for the presence of any Hazardous Substances, including, without limitation, the opportunity to perform soil borings and other tests. PERMITTEE shall notify CITY if PERMITTEE'S investigations indicate the presence of any Hazardous Substances in any of the Permit Areas. PERMITTEE waives any claims against CITY which may result from the presence of Hazardous Substances on or within any of the Permit Areas.

## **10. DEVELOPMENT OF SITES.**

Prior to the execution of this Master Permit, PERMITTEE shall provide to CITY a full and complete list of proposed known Sites that will be covered by this Master Permit, which list shall be attached hereto as Exhibit A. PERMITTEE shall also provide to CITY, prior to the execution of this Master Permit, full and complete site plans for each Site listed on Exhibit A. The Site Plans will be attached hereto as Exhibit B. PERMITTEE may add additional sites to the Master Permit via Addendum to Exhibit A, however, the number of sites added may not exceed 100 sites. Once a total of 100 sites have been identified, additional sites shall not be added to Exhibit A without CITY'S prior written consent, which consent shall be in CITY'S sole discretion. Within fourteen (14) calendar days of the completion of the installation and development of a Site listed on Exhibit A, PERMITTEE must provide CITY with a Site Addendum in substantially the same form as Exhibit C, which is an agreement for a particular Site licensed to PERMITTEE, which will be added as an addendum to this Master Permit. Failure to timely provide CITY with each Site Addendum will constitute breaches by PERMITTEE of this Master Permit.

PERMITTEE shall not develop any Site in the Permit Areas unless and until this Master Permit has been executed (or if applicable, amended) by the Parties and approved by the San Diego City Attorney to include the Sites in Exhibits A and B of this Master Permit. PERMITTEE shall develop each Site in the Permit Areas in accordance with its respective site plans (PERMITTEE'S standard drawings) approved by CITY'S Development Services Department (or other CITY department, as appropriate), attached hereto as Exhibit B as updated from time to

time, in the CITY'S sole discretion. 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.

## **11. IMPROVEMENTS AND ALTERATIONS.**

Other than as approved by the site plans and depicted in Exhibit B, PERMITTEE shall not construct any improvements, structures, or installations in the Permit Areas, or make any alterations to the Permit Areas (with the exception of necessary maintenance and/or repairs that does not include swapping out or replacing any the Communications Equipment) without CITY'S prior written consent, which consent shall be in CITY'S sole discretion. This includes modifications that are considered "eligible facilities" under Section 6409 of the Middle Class Tax Relief and Job Creation Act. PERMITTEE shall not make any structural or architectural design alterations to approved improvements, structures, or installations in the Permit Areas without CITY'S prior written consent, which consent shall be in CITY'S sole discretion. CITY shall not be obligated by this Master Permit to make, or assume any expense for, any improvements or alterations.

- 11.1. Alterations to Communications Equipment. PERMITTEE shall not make any alterations, additions or improvements to the Communications Equipment, except for routine maintenance that does not include swapping out or replacing any of the Communications Equipment, unless: (1) PERMITTEE obtains CITY'S prior written consent, which consent shall be in CITY'S sole discretion; (2) the alterations, additions or improvements do not damage or interfere with any adjacent improvements in the Permit Areas; and (3) the alterations, additions or improvements comply with the requirements set forth in Exhibit D. Nothing in this section shall be construed to eliminate PERMITTEE'S obligation to obtain development related permits and approvals for any alterations to the Communications Equipment that may be required by CITY'S Development Services Department or any other governmental agency. READ retains the right to deny any request for modification or alteration of a Site as a proprietary right, even if CITY'S Development Services Department is required by federal law to approve or permit such request.
- 11.2. Information to Permitting Authorities. In obtaining any required permits for improvements, structures, installations, and/or alterations in the Permit Areas, PERMITTEE shall inform permitting authorities, in writing, that the Permit Areas are CITY-owned property.
- 11.3. Repair and Restoration. Nothing in this section shall relieve PERMITTEE of any obligation under this Master Permit to maintain the Permit Areas in a decent, safe, healthy, and sanitary condition, as required in Section 19 of this Master Permit.
- 11.4. Emergency. In the event of an Emergency, as soon as practicable thereafter and not later than two (2) business days after having taken such action, PERMITTEE shall advise CITY in writing of the emergency work performed or the action taken with respect to any emergency modification or alteration of PERMITTEE'S Communications Equipment.

PERMITTEE shall acquire any necessary permits, if any, to cover the emergency work performed.

- 11.5. Accidental Damage by CITY. In the event CITY should cut or damage PERMITTEE'S communication line, PERMITTEE agrees to perform all repairs expeditiously, no later than six (6) hours from notice of cut. Simultaneously, CITY agrees to cease any and all work to the affected portion of the Permit Areas for a maximum of six (6) hours or until PERMITTEE completes all repairs, whichever is less.

## **12. COMPETENT MANAGEMENT.**

Throughout the Term, PERMITTEE shall provide competent management of the Permit Areas for the Permit Use to the reasonable satisfaction of CITY. "Competent management" shall mean demonstrated ability in the management and operation of wireless communication facilities and related activities in a responsible manner and in accordance with industry standards.

## **13. COMPLIANCE WITH LAWS AND POLICIES.**

- 13.1. General. PERMITTEE'S Operations shall, at all times, comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments, at PERMITTEE'S sole cost and expense. Upon receipt of the same, PERMITTEE shall comply with any and all notices issued by CITY under the authority of all laws, statutes, ordinances, or regulations.
- 13.2. Nondiscrimination/Equal Opportunity. PERMITTEE 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 disability in PERMITTEE'S Operations.

## **14. WATER QUALITY ASSURANCES.**

PERMITTEE shall, at its sole cost and expense, comply with all laws, rules, regulations and direction of competent governmental authority (such as the San Diego Regional Water Quality Control Board) relating to water quality assurance and storm water management. PERMITTEE acknowledges and agrees that such legal requirements may change at any time and from time to time.

- 14.1. NPDES. PERMITTEE shall comply with all applicable requirements of the National Pollutant Discharge Elimination System ("NPDES") permit in force on the Effective Date of this Master Permit (i.e., Permit No. R9-2013-0001), and any and all amendments thereto and all applicable succeeding NPDES permits.
- 14.2. Stormwater Management. PERMITTEE shall comply with all applicable requirements of the San Diego Municipal Code Chapter 4, Article 3, Division 3: Stormwater Management and Discharge Control (the "Stormwater Code"), and employ "Best Management Practices," as that term is defined by the Stormwater Code, and as

approved by CITY, in its governmental capacity, under its Stormwater Management Program.

## **15. TELECOMMUNICATIONS PROVISIONS.**

- 15.1. Entire Installation. PERMITTEE warrants that the Communications Equipment listed in Exhibit B constitutes the entire installation at each Site within the Permit Areas. PERMITTEE shall update Exhibit B from time to time as any changes or additions to the Communications Equipment are made, or within thirty (30) calendar days after CITY'S demand for such an update. No changes or additions to the Communications Equipment shall be made without first obtaining written approval by CITY. Notwithstanding the foregoing, PERMITTEE shall not be required to update Exhibit B in circumstances of routine Site maintenance.
- 15.2. Radio Frequency Radiation. PERMITTEE 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 portion of the Permit Areas casually accessible by the general public or by any worker at ground level shall be maintained below limits stated for General Population/Uncontrolled Exposure. PERMITTEE shall report to CITY any portion of the Permit Areas discovered by PERMITTEE to exceed these federally mandated limits. PERMITTEE shall defend and hold the CITY harmless for any liabilities, fines or other penalties claimed or imposed against the CITY that result from the existence of excessive levels of radiation that are caused in whole or in part, or contributed to, by PERMITTEE'S Operations. Hazardous RF radiation levels may be encountered when climbing on antenna structures (refer to FCC OET Bulletin 65). Any equipment installed within the Permit Areas may, at times, require shutdown to allow maintenance on antenna structures. PERMITTEE shall allow shutdown periods when required for this maintenance, provided CITY shall use reasonable efforts to ensure that these 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 a primary concern. Any areas in which these employees may be subjected to radiation levels that exceed the General Population/Uncontrolled Exposure limits must be clearly identified as required by CAL-OSHA. PERMITTEE shall provide CITY with written shutdown procedures, contact names, and telephone numbers. PERMITTEE shall notify CITY, in writing, of any changes to the shutdown procedures, contact names, or telephone numbers at least ten (10) calendar days prior to such a change.
- 15.3. Radio Frequency Interference. PERMITTEE warrants that all Communications Equipment installations, modifications, operation, and maintenance will not result in degraded performance or RF interference to any existing authorized uses within the Permit Areas by fulfilling the requirements of Exhibit C, which may be updated from time to time in CITY'S sole discretion.
- 15.4. Industry Standards. PERMITTEE shall perform all Communications Equipment installations, modifications, operation, 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:

- 15.4.1. PERMITTEE shall remove all of its trash and debris from the Permit Areas at the end of each workday and on completion of each project;
  - 15.4.2. Tower and structure climbing shall be done in compliance with all CAL-OSHA requirements and General Orders propagated by the CPUC; and
  - 15.4.3. All transmitters shall have all necessary protection, such as cavity filtering and transmitter isolators, to eliminate any RF degradation of the receive signal to any other user within the Permit Areas.
- 15.5. Collocation. PERMITTEE shall not access any other wireless communication facility or CITY-owned communications equipment (including any towers) within the Permit Areas without CITY'S prior written consent.
- 15.6. Interference with CITY Operations or Public Use. PERMITTEE'S Operations shall not unreasonably interfere with CITY operations or public use of CITY-owned property.

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

PERMITTEE shall immediately give notice to CITY of any fire or any other damage that occurs on or within the Permit Areas that occurs either during or after the completion of construction of approved improvements. PERMITTEE shall not commit, or allow to be committed, any waste or injury or any public or private nuisance in connection with the Permit Use. PERMITTEE shall keep the Permit Areas clean and clear of refuse and obstructions, and dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If any portion of the Permit Areas is damaged by any cause that puts any portion of the Permit Area into a condition which is not decent, safe, healthy, and sanitary, PERMITTEE shall make, or cause to be made, full repair of the damage and restore the Permit Areas to the condition which existed prior to the damage; or, at CITY'S option, PERMITTEE shall clear and remove from the Permit Areas all debris resulting from the damage and restore the Permit Areas 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. PERMITTEE shall commence preliminary steps toward performing repairs and/or restoration of the Permit Areas as soon as practicable, but no later than ten (10) calendar days after the occurrence of the fire or damage, and shall complete the required repairs and/or restoration of the Permit Areas within sixty (60) calendar days after such occurrence. Failure to timely repair damage to the Site and/or Permit Areas will be considered a default under the Master Permit.

## **17. HAZARDOUS MATERIALS.**

PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance or otherwise regulated substances in, on, under or from

the Permit Areas by any of PERMITTEE'S officers, employees, agents, contractors, invitees and guests. PERMITTEE and PERMITTEE'S officers, employees, agents, contractors, invitees and guests shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Areas without CITY'S prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

- 17.1. Release. For all purposes of this Master Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
- 17.2. Remediation. If PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Areas results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY'S satisfaction for unrestricted reuse of the Permit Areas, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 17.3. Removal. If PERMITTEE or PERMITTEE'S officers, employees, agents, contractors, invitees and guests has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Permit Areas, PERMITTEE shall remove all Hazardous Substances in any type of container, equipment or device from the Permit Areas immediately upon or prior to the expiration or earlier termination of this Master Permit. CITY reserves the right to conduct inspections of the Permit Areas and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Permit Areas. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.
- 17.4. Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Areas, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE'S officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 17.5. Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath any portion of the Permit

Areas, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Areas.

- 17.6. Environmental Assessment. Upon reasonable cause to believe that PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Areas resulted in any Hazardous Substance being released on, from or beneath any portion of the Permit Areas, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE'S sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE'S occupancy, use, development, maintenance, or restoration of any affected portion of the Permit Areas, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Permit Areas; then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Areas and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.

## **18. SIGNS**

PERMITTEE shall only post signs required by federal, state, or local regulations, including, without limitation, safety signs required by OSHA, FAA, CPUC and/or FCC. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising within the Permit Areas without CITY'S prior written consent, which consent shall be in CITY'S sole discretion. If any such unauthorized item is found within the Permit Areas, PERMITTEE shall remove the item, at PERMITTEE'S sole cost and expense, upon forty-eight (48) hours' notice by CITY, or CITY may then enter the Permit Areas and remove the item at PERMITTEE'S sole cost and expense. PERMITTEE shall post a clearly marked sign at each Site within the Permit Areas indicating PERMITTEE'S name and emergency telephone number.

## **19. MAINTENANCE OF PERMIT AREAS**

PERMITTEE shall, at its sole cost and expense, continuously maintain the Permit Areas throughout the Term. In doing so, PERMITTEE 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 Permit Areas in a decent, safe, healthy, and sanitary condition. All such maintenance, repairs, restoration, and replacements shall be completed to the satisfaction of CITY, in conformance with the depiction of the Permit Areas set forth in Exhibit A, the approved site plans set forth in Exhibit B, and in compliance with all applicable codes and standards of CITY, state, and federal agencies.

19.1. CITY Maintenance. CITY reserves the right to perform any needed routine maintenance within the Permit Areas at any time without providing notice to PERMITTEE, including, but not limited to, the replacement of light bulbs on a Street Light Pole and/or Traffic Signal. However, should CITY perform non-routine maintenance, including, but not limited to, the replacement of a Street Light Pole and/or Traffic Signal, CITY shall provide PERMITTEE with at least forty eight (48) hours' notice prior to commencing the work (except in the event of an emergency, in which case, no prior notice shall be required, but CITY shall give PERMITTEE notice as soon as reasonably possible thereafter), and PERMITTEE shall comply with all applicable safety requirements issued by CITY to ensure the safety of CITY personnel performing such maintenance within the Permit Areas.

19.2. Maintenance Procedures for Parties. The Parties shall comply with the emergency maintenance procedures set forth in Exhibit E, including the requirement to notify the other party, in writing, of any changes to its emergency contacts and telephone numbers. PERMITTEE shall provide and install an emergency shut-off switch which will terminate electrical service to the PERMITTEE'S equipment, with the switch to be used only as set forth in Exhibit E.

## **20. ENTRY AND INSPECTION.**

CITY may, at any time, enter the Permit Areas for the purpose of viewing and ascertaining the condition of the Permit Areas, or to protect CITY'S interest in the Permit Areas, or to inspect the operations conducted within the Permit Areas. If CITY'S entry or inspection discloses that any portion of the Permit Areas is not in a decent, safe, healthy, and sanitary condition, CITY may, after ten (10) calendar days written notice to PERMITTEE, have any necessary maintenance work done in order to keep the Permit Areas in a decent, safe, healthy, and sanitary condition, all at PERMITTEE'S sole cost and expense, and PERMITTEE shall promptly pay any and all costs incurred by CITY in having the necessary maintenance work done. If at any time CITY determines that any portion of the Permit Areas is not in a decent, safe, healthy, and sanitary condition, CITY may, in its sole discretion, without additional notice, require PERMITTEE 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. PERMITTEE shall pay all costs associated with

the bond. The rights reserved in this section shall not create any obligation on CITY or increase CITY'S obligations elsewhere in this Master Permit. As part of its standard practice, PERMITTEE shall schedule a pre-construction inspection and post-construction inspection for each Site within the Permit Areas.

## **21. UTILITIES.**

PERMITTEE shall order, obtain, and pay for all utilities, including installation and service charges, in connection with PERMITTEE'S Operations. All utilities shall be installed underground unless such existing utilities are aerial and shall be used for PERMITTEE'S Operations only.

## **22. TAXES.**

PERMITTEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon PERMITTEE or the Permit Areas, including the land, any buildings, structures, machinery, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by PERMITTEE, or levied by reason of PERMITTEE'S Operations, including any licenses or permits. PERMITTEE acknowledges that this Master Permit may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE shall pay all such possessory interest taxes. PERMITTEE'S payment for such taxes, assessments, and/or fees shall not reduce any payment due CITY.

## **23. SUPERIOR INTERESTS.**

This Master Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits, licenses, easements, and rights-of-way pertaining to the Permit Areas, whether or not of record. PERMITTEE shall obtain all licenses, permits, and agreements from such third parties as may be or become necessary or reasonably advisable to allow PERMITTEE'S use of the Permit Areas, relative to any such superior interest. If PERMITTEE'S use of the Permit Areas is or becomes inconsistent or incompatible with a preexisting superior interest, PERMITTEE 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.

## **24. ENCUMBRANCES.**

PERMITTEE shall not permit any encumbrance related to PERMITTEE'S Operations. CITY may, in its sole discretion, consent to such an encumbrance if exclusively related to PERMITTEE'S development of the Permit Areas. If an encumbrance is placed on any portion of the Permit Areas, PERMITTEE shall diligently seek and obtain, at its sole cost and expense, the removal of the encumbrance as soon as possible upon completion of the development, if the encumbrance was authorized by CITY, or, if unauthorized, immediately upon CITY'S demand.

24.1. Liens. PERMITTEE 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 PERMITTEE'S Operations, and all costs of defending against such claims, including, without limitation, reasonable attorney fees. If PERMITTEE'S Operations result in a lien or notice of lien being filed against any portion of the Permit Areas, PERMITTEE shall, within ten (10) 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.

## **25. ASSIGNMENT AND SUBLICENSING.**

25.1. Assignment. This Master Permit shall not be assigned by PERMITTEE without the express written consent of CITY, which consent shall be in CITY'S sole discretion. Notwithstanding the foregoing, the transfer of the rights and obligations of PERMITTEE to a parent, subsidiary, or other affiliate of PERMITTEE or to any successor in interest or entity acquiring fifty-one (51%) or more of PERMITTEE'S stock or assets (collectively "Exempted Transfers") shall not be deemed an assignment for the purposes of this Master Permit and therefore shall not require the consent of CITY, provided that PERMITTEE reasonably demonstrates to CITY'S lawfully empowered designee the following criteria (collectively the "Exempted Transfer Criteria"): (i) such transferee will have a financial strength after the proposed transfer at least equal to that of PERMITTEE immediately prior to the transfer; (ii) any such transferee assumes all of PERMITTEE'S obligations hereunder, and (iii) the experience and technical qualifications of the proposed transferee, either alone or together with PERMITTEE'S management team, in the provision of telecommunications or similar services, evidences an ability to operate PERMITTEE'S Network. PERMITTEE shall give at least thirty (30) days prior written notice (the "Exempted Transfer Notice") to CITY of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why PERMITTEE believes the Exempted Transfer criteria have been satisfied. CITY shall have a period of thirty (30) days (the "Exempted Transfer Evaluation Period") from the date that PERMITTEE gives CITY its Exempted Transfer Notice to object in writing to the adequacy of the evidence contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until CITY has received from PERMITTEE any and all additional information CITY may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as CITY gives PERMITTEE notice in writing of the additional information CITY requires within fifteen (15) days after CITY'S receipt of the original Exempted Transfer Notice. If CITY fails to act upon PERMITTEE'S Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the forgoing provisions) such failure shall be deemed an affirmation by CITY that PERMITTEE has in fact established compliance with the Exempted Transfer Criteria to CITY'S satisfaction.

25.2. Sublicensing. PERMITTEE shall not sublicense, in whole or in part, the Site, or any right or appurtenant privilege to the Site, except as follows:

25.2.1 PERMITTEE'S Sublicense with Verizon Wireless (VAW), LLC dba Verizon Wireless (SUBLICENSEE). CITY hereby acknowledges that LESSEE intends to sublicense the Permit Areas to allow the use and occupancy of the Site(s) by SUBLICENSEE. The CITY hereby consents that this specific sublicense agreement may occur without additional consideration to the CITY. The use and occupancy of the Site by SUBLICENSEE is subject to all terms and conditions of this Permit. The sublicense will be and shall remain subject and subordinate to this Permit, as may be amended from time to time. If there is a conflict between the sublicense and this Permit, the terms, conditions, and obligations of this Permit shall control. CITY'S consent to the sublicense agreement with SUBLICENSEE shall be subject to the following conditions, and shall only be valid provided that all of the following conditions remain true:

- 25.2.1.1 The sublicense shall not release PERMITTEE from any liability, whether past, present, or future, under this Permit as to the Permit Areas or any portion thereof;
- 25.2.1.2 The sublicense shall not authorize any additional uses of the Permit Areas, not authorized in this Permit;
- 25.2.1.3 The sublicense shall not alter the primary liability of PERMITTEE to pay the rent and perform all of PERMITTEE's obligations under this Permit;
- 25.2.1.4 The sublicense shall not be construed as a waiver of the requirement to obtain CITY's written consent or act as a consent to any other proposed sublicense, assignment or transfer of any right to use or occupy the Permit Areas by PERMITTEE or SUBLICENSEE to any portion of the Permit Areas. Any transfer of the right to use and occupy the Permit Areas by operation of law shall automatically terminate the Sublicense;
- 25.2.1.5 The sublicense shall not grant any rights to the SUBLICENSEE greater than those rights granted to PERMITTEE under this Permit;
- 25.2.1.6 The sublicense shall not require CITY to recognize SUBLICENSEE in the event of a default in the Permit by PERMITTEE;
- 25.2.1.7 The sublicense shall not enlarge or in any manner increase CITY's obligations or duties under this Permit;
- 25.2.1.8 The sublicense shall not create obligations or costs to CITY with regard to the sublicense;

- 25.2.1.9 The sublicense shall not modify, waive, amend, or otherwise affect any provision of this Permit;
- 25.2.1.10 The sublicense shall not be deemed to be any type of obligation by CITY to PERMITTEE, SUBLICENSEE or to any governmental agent, board, commission, or agency with regard to any other action relating to SUBLICENSEE's occupancy, use, or maintenance of any portion of the Permit Areas or improvements thereon;
- 25.2.1.11 Prior to PERMITTEE allowing SUBLICENSEE's use or occupancy of the Permit Areas, PERMITTEE shall cause to be filed with the CITY, a copy of the policy of insurance demonstrating that SUBLICENSEE is in compliance with the insurance requirements in Section 7, which shall name PERMITTEE and the "City of San Diego, its elected officials, officers, representatives, agents, and employees," as additional insureds for the entire term of the sublicense agreement.
- 25.2.1.12 SUBLICENSEE shall assume the defense of, indemnify and hold harmless CITY and PERMITTEE from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Permit Areas, the condition of the Permit Areas or from any act or omission of SUBLICENSEE, its agents, invitees, contractors, and guests; provided however, SUBLICENSEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the established gross negligence or willful misconduct of the CITY, its agents, officers or employees.
- 25.2.2. No Other Sublicensing Allowed. LESSEE shall not sublicense, or attempt to transfer any other interest or right to use the Permit Area, in whole or in part, the Site or any right or appurtenant privilege to the Site other than to SUBLICENSEE, without CITY'S prior written consent, which consent shall be in CITY'S sole discretion and shall require additional compensation.
- 25.3. Provisions Binding on Successors. Except as otherwise provided in this Master Permit, all of the terms, covenants, and conditions of this Master Permit shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

## **26. INDEMNIFICATION.**

PERMITTEE shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE'S officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this Master Permit or

PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Areas, including damages arising out of release of hazardous materials, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that PERMITTEE'S duty to indemnify and hold harmless shall not include any established liability arising from the gross negligence or willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.

## **27. OTHER GOVERNMENTAL ACTIONS.**

By entering into this Master Permit, neither CITY nor the 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 Permit Areas. Discretionary action includes, but is not limited to, rezonings, variances, environmental clearances, or any other governmental agency approvals that may be required for PERMITTEE'S Operations. PERMITTEE shall diligently seek, at its sole cost and expense, all entitlements and actions from both CITY and other governmental agencies with jurisdiction over the Permit Areas, as may be necessary for PERMITTEE'S Operations.

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

- 28.1. Resources. CITY reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Permit Areas.
- 28.2. Use. CITY may grant and use easements or establish and use rights-of-way over, under, along, and across the Permit Areas for utilities, thoroughfares, or access as CITY deems advisable, in its sole discretion, for the public good.
- 28.3. Entry. CITY may enter the Permit Areas at any time to develop or make repairs to municipal resources and services.

## **29. REASSIGNMENT OF SPACE.**

CITY may reassign PERMITTEE to an equivalent amount of space in a different location within the Permit Areas, if and when reasonably necessary. PERMITTEE will, at the direction of CITY, relocate its Communications Equipment at PERMITTEE'S sole cost and expense. This section shall not apply to underground vault sites. PERMITTEE shall cooperate with CITY and its contractors during any such relocation or any renovation, repair, or other alteration of the Permit Areas. During physical relocation of the Communications Equipment to the relocation site, CITY will work with PERMITTEE to attempt to secure an alternative CITY-approved site for PERMITTEE to operate temporary installed communications equipment, which will be installed and maintained at PERMITTEE'S sole cost and expense.

### **30. REVOCATION AND TERMINATION.**

#### **30.1. Revocation by CITY.**

30.1.1. Revocable License. This Master Permit is not a lease; it is a license to use CITY-owned property. As such, the Parties hereby acknowledge and agree that CITY, as the licensor, may revoke this Master Permit at will and at any time during the Term. However, CITY agrees that CITY will not exercise its right to revoke this Master Permit at will unless CITY determines, in its sole discretion, that PERMITTEE is in default of this Master Permit, the events of default being set forth in this Section. Upon default, CITY may thereafter, in its sole discretion, exercise its right to revoke this Master Permit at will and at any time during the Term. If CITY exercises its right to revoke this Master Permit, CITY will provide PERMITTEE written notice of the revocation, and upon PERMITTEE'S receipt of the notice, PERMITTEE shall immediately cease PERMITTEE'S Operations and remove PERMITTEE'S improvements and personal property from the Permit Areas (pursuant to Section 31 of this Permit).

30.1.2. Events of Default. Each of the following shall constitute an event of default under this Master Permit:

- a. PERMITTEE'S failure to make any payment required under this Master Permit when due, if the failure continues for twenty (20) calendar days past due following written notice of the failure by CITY;
- b. PERMITTEE'S breach of any of its obligations under this Master Permit, other than those requiring payment to CITY, and PERMITTEE either:
  - i. fails to cure the breach within thirty (30) calendar days following written notice from CITY; or,
  - ii. if such breach is not curable within thirty (30) calendar days following written notice from CITY, fails to immediately commence to cure the breach and to diligently pursue the cure to completion.
- c. PERMITTEE voluntarily files any petition under any bankruptcy or insolvency act or law;
- d. PERMITTEE has involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the matter is not dismissed by a court of competent jurisdiction within ninety (90) calendar days of filing;
- e. PERMITTEE is adjudicated a bankrupt;
- f. PERMITTEE makes a general assignment for the benefit of creditors; and

g. PERMITTEE uses any portion of the Permit Areas for any unauthorized purpose.

- 30.2. Termination by PERMITTEE. PERMITTEE may terminate this Master Permit for any reason upon one hundred eighty (180) calendar days prior written notice to CITY. Upon PERMITTEE'S termination of this Master Permit, PERMITTEE shall immediately cease PERMITTEE'S Operations and remove PERMITTEE'S improvements and personal property from the Permit Areas (pursuant to Section 31 of this Master Permit).
- 30.3. No Obligation. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by PERMITTEE as a result of CITY'S revocation or PERMITTEE'S termination of this Master Permit. PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY'S revocation or PERMITTEE'S termination of this Master Permit.
- 30.4. Cumulative Remedies. CITY'S rights and remedies under this Master Permit are cumulative and shall not limit or otherwise waive or deny any of CITY'S rights or remedies at law or in equity.
- 30.5. Waiver. The property constituting the Permit Areas is publicly owned and held in trust for the benefit of CITY'S citizens. CITY'S failure to insist upon the strict performance of any of PERMITTEE'S obligations under this Master Permit, in one or more instances, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. CITY'S waiver of a default shall not be a waiver of any other default. Any waiver of a default must be in writing and executed by CITY to constitute a valid and binding waiver. CITY'S delay or failure to exercise a right or seek a remedy shall not be deemed a waiver of that or any other right or remedy under this Master Permit, at law or in equity. The exercise of any particular right or the use of any particular remedy for any default shall not waive the use of any other right or remedy for the same default or for another or later default. CITY'S acceptance of any Annual Use Fee shall not be a waiver of any default preceding such payment. CITY'S failure to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY may, at any and all times, require the cure of the default.

### **31. REMOVAL OF IMPROVEMENTS AND PERSONAL PROPERTY.**

- 31.1. Improvements. Upon expiration of this Master Permit (without the Parties' execution of a new permit for the Permit Areas) or upon earlier revocation or termination of this Master Permit, any and all improvements, trade fixtures, structures, installations, and/or additions to the Permit Areas constructed within the Permit Areas by PERMITTEE or PERMITTEE'S sublicensees, contractors, or subcontractors shall be deemed to be part of the Permit Areas and shall become CITY'S property free of all liens and claims. Notwithstanding the foregoing, CITY may, in its sole discretion and upon notice to PERMITTEE at revocation or termination or at any time prior to the expiration of the Term, elect not to assume ownership of all or any part of such improvements, trade fixtures, structures, installations, and/or additions. In that case, PERMITTEE shall, at

PERMITTEE'S sole cost and expense, remove those improvements, trade fixtures, structures, installations, and/or additions identified by CITY as soon as practicable, but in no event later than sixty (60) calendar days after the expiration or earlier revocation or termination of this Master Permit. If any removal of such improvements, trade fixtures, structures, installations, and/or additions by PERMITTEE results in damage to any portion of the Permit Areas, PERMITTEE shall repair all such damage at PERMITTEE'S sole cost and expense. If PERMITTEE fails to remove any such improvements, trade fixtures, structures, installations, and/or additions identified by CITY, CITY may, at its option, remove them at PERMITTEE'S sole cost and expense.

- 31.2. Personal Property. Upon expiration of this Master Permit (without the Parties' execution of a new permit for the Permit Areas) or upon earlier revocation or termination of this Master Permit, PERMITTEE shall remove PERMITTEE-owned machines, appliances, equipment (other than trade fixtures), and other items of personal property as soon as practicable, but in no event later than sixty (60) calendar days after the expiration or earlier revocation or termination of this Master Permit. If any removal of such personal property by PERMITTEE results in damage to any portion of the Permit Areas, PERMITTEE shall repair all such damage at PERMITTEE'S sole cost and expense. Any such items which PERMITTEE fails to remove shall be deemed abandoned and become CITY'S property free of all claims and liens, or CITY may, at its option, remove such items at PERMITTEE'S sole cost and expense.
- 31.3. CITY'S Right to Acquire. Notwithstanding the foregoing, if PERMITTEE elects to dispose of any of its personal property used in connection with PERMITTEE'S Operations, then upon expiration or earlier revocation or termination of this Master Permit, CITY shall have the first right to acquire or purchase such personal property.
- 31.4. Performance Bond. PERMITTEE shall obtain and provide CITY on a yearly basis proof of security in the form of a performance bond in the amount of \$1,000,000.00, in favor of CITY, to cover the cost to dismantle or remove PERMITTEE's improvements, trade fixtures, structures, installations, additions, and personal property, including PERMITTEE-owned machines, appliances, equipment ("Removal Performance Bond") constructed, installed or erected by PERMITTEE or PERMITTEE'S sublicensees, contractors, or subcontractors within the Permit Areas. The Removal Performance Bond shall be for a term of one (1) year and shall be continuously renewed, extended or replaced so that it remains in place for the entire Term of this Master Permit or until PERMITTEE'S secured removal obligations are performed to the satisfaction of CITY, whichever is sooner. In order to ensure continuous renewal of the Removal Performance Bond with no lapse, each bond shall be extended or replaced at least one month in advance of its expiration date. Removal costs may, at CITY's sole discretion, be reevaluated at the conclusion of the 5<sup>th</sup> year of the Term of this Master Permit to ensure sufficient funds for removal. PERMITTEE shall adjust the amount of the Removal Performance Bond at CITY's request. Failure to secure the Removal Performance Bond and all renewals and extensions thereof shall constitute breaches of the PERMITTEE under this Master Permit.

### **32. NOTICES.**

Any notice required or permitted to be given under this Master Permit 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 PERMITTEE:

Wilcon  
624 South Grand Avenue, Suite 2500  
Los Angeles, CA 90017  
Attn: SVP, Network Operations

With a copy to:  
Wilcon  
624 South Grand Avenue, Suite 2500  
Los Angeles, CA 90017  
Attn: General Counsel

If to CITY:

City of San Diego  
Real Estate Assets Department  
Attn: Real Estate Assets Director  
1200 Third Avenue, Suite 1700, MS 51A  
San Diego, CA 92101-4155

If to CITY'S Street Division:

City of San Diego  
Street Division  
Attn: Deputy Director  
2781 Caminito de Chollas  
San Diego, CA 92105

- 32.1. Address Changes. Any party entitled or required to receive notice under this Master Permit may, by like notice, designate a different address to which notices shall be sent.
- 32.2. When Effective. Notice shall be effective upon personal service, or five (5) calendar days after deposit in the U. S. mail.

### **33. MISCELLANEOUS PROVISIONS.**

- 33.1. Governing Law. This Master Permit shall be governed, construed, and enforced in

accordance with the laws of the State of California.

- 33.2. Entire Understanding. This Master Permit contains the entire understanding of the Parties. CITY and PERMITTEE agree that there is no other written or oral understanding between them with respect to PERMITTEE'S Operations. Each party has relied on its own examination of the Permit Areas, advice from its own attorneys, and the warranties, representations, and covenants within the Master Permit itself. Each party 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 Master Permit. The failure or refusal of any party to read this Master Permit or other documents, inspect the Permit Areas, and obtain legal or other advice relevant to this transaction shall constitute a waiver of any objection, contention, or claim that might have been based on such actions.
- 33.3. No Affiliation. Nothing contained in this Master Permit shall be deemed or construed to create a partnership, joint venture, or other affiliation between the Parties, or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.
- 33.4. Standard of Conduct. PERMITTEE and its employees shall, at all times, conduct themselves and PERMITTEE'S Operations in a creditable manner and in accordance with industry standards.
- 33.5. Joint and Several Liability. If PERMITTEE 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 PERMITTEE under this Master Permit.
- 33.6. Unavoidable Delay. If the performance of any act required of CITY or PERMITTEE under this Master Permit 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. If CITY or PERMITTEE claims the existence of such a delay, the party claiming the delay shall notify the other party, in writing, of that fact within ten (10) calendar days after the beginning of any such claimed delay.
- 33.7. CITY'S Consent or Approval. Whenever required under this Master Permit, CITY'S consent or approval shall mean the written consent or approval of CITY'S Mayor or his designee, unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made at the Mayor's discretion, unless otherwise expressly provided.
- 33.8. Permit Modifications. This Master Permit shall not be modified, altered, or amended unless the modification, alteration, or amendment is in writing and signed by the Parties.
- 33.9. Cost Recovery. CITY collects various fees to offset the administrative costs incurred for CITY staff services. CITY shall process each of PERMITTEE'S service requests upon receipt of PERMITTEE'S payment of the applicable fee. The fee schedule, which is on

file with the Office of the City Clerk, may be updated from time to time in CITY'S sole discretion.

- 33.10. Survival. Any obligation under this Master Permit that requires a party's performance of that obligation after the expiration or earlier revocation or termination of this Master Permit shall survive such expiration, revocation, or termination.
- 33.11. Number and Gender. In this Master Permit, words in the singular number shall include the plural, and *vice versa*, as appropriate to the context. Words of either gender shall include the other gender.
- 33.12. California Public Records Act. CITY shall determine, in its sole discretion, whether information provided to CITY by LESSEE pursuant to this Lease is or is not a public record subject to disclosure under the California Public Records Act (CPRA). LESSEE shall hold CITY, its elected officials, officers and employees harmless for CITY'S disclosure of any such information in response to a request for information under the CPRA.
- 33.13. Authority to Execute and Deliver Permit. Each individual executing this Master Permit on behalf of another person or legal entity represents and warrants that he or she is authorized to execute and deliver this Master Permit 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 Master Permit is binding upon such person or entity in accordance with its terms. Each person executing this Master Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that 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.

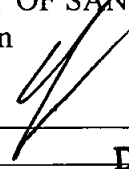
[The remainder of this page intentionally left blank.]

33.14. Exhibits Incorporated. All exhibits referenced in this Master Permit are incorporated into the Master Permit by this reference.

IN WITNESS WHEREOF, this Master Permit is executed by CITY and PERMITTEE, to be effective as of the Effective Date.

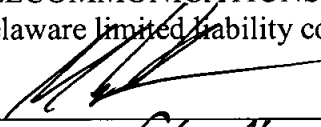
Date: 8/8/16

THE CITY OF SAN DIEGO, a California municipal corporation

By  **Cybele Thompson**  
**Director, Real Estate Assets**  
Director, Real Estate Assets

Date: \_\_\_\_\_

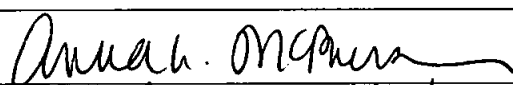
PERMITTEE: FREEDOM  
TELECOMMUNICATIONS LLC DBA WILCON,  
a Delaware limited liability company

By   
(Print Name) Glenna Wheeler  
(Title) VP - General Counsel & Secretary

ENVIRONMENTAL ANALYSIS SECTION:

This project is exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities). \_\_\_\_\_

Date: July 27, 2016

By   
(Print Name) Anna L. McPherson  
(Title) Senior Planner

APPROVED AS TO FORM:

Date: 8/18/16

JAN I. GOLDSMITH, City Attorney

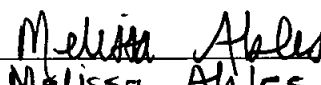
By   
Melissa Ables  
Deputy City Attorney

Exhibit A

|    | NODE ID | STRUCTURE TYPE                | LATITUDE  | LONGITUDE   | Street Address                                                                                                  | Licensors  | Built? |
|----|---------|-------------------------------|-----------|-------------|-----------------------------------------------------------------------------------------------------------------|------------|--------|
| 1  | DSD101  | TRAFFIC LIGHT W/ STREET LIGHT | 32.71587  | -117.163717 | 104 Broadway Northeast Corner Broadway & 1st Ave, San Diego, Ca 92101                                           | City of SD | No     |
| 2  | DSD102  | TRAFFIC LIGHT W/ STREET LIGHT | 32.715833 | -117.157345 | 1018 Eight Avenue, Northeast Corner, San Diego, Ca 92101                                                        | City of SD | No     |
| 3  | DSD103  | STREET LIGHT                  | 32.713691 | -117.163937 | 109 "F" Street, Northwest Corner First Avenue And "F" Street, "Athens Market Taverna", San Diego, Ca 92101      | City of SD | No     |
| 4  | DSD104  | TRAFFIC LIGHT W/ STREET LIGHT | 32.714774 | -117.160096 | 903 Fifth Avenue Eastside "The Melting Pot", San Diego, Ca 92101                                                | City of SD | No     |
| 5  | DSD106  | STREET LIGHT                  | 32.706401 | -117.151813 | 105 14Th Street Northeast Corner 14Th & Imperial Ave, San Diego, Ca 92101                                       | City of SD | No     |
| 6  | DSD107  | STREET LIGHT                  | 32.71475  | -117.15848  | 625 Broadway "E" Parking Structure Entrance Northside, San Diego, Ca 92101                                      | City of SD | No     |
| 7  | DSD108  | STREET LIGHT                  | 32.713748 | -117.157344 | 803 "F" Street Northeast Corner Post Office, San Diego, Ca 92101                                                | City of SD | No     |
| 8  | DSD109  | TRAFFIC LIGHT W/ STREET LIGHT | 32.712704 | 117.156412  | 721 Ninth Avenue, Northeast Corner "G" Street, "Café Chole", San Diego, Ca 92101                                | City of SD | No     |
| 9  | DSD110  | STREET LIGHT                  | 32.712504 | -117.154776 | 1055 "G" Street, Southwest Corner Of "G" And Eleventh Avenue, San Diego, Ca 92101                               | City of SD | No     |
| 10 | DSD111  | STREET LIGHT                  | 32.710531 | -117.154824 | 1090 Island Avenue, Northwest Corner Island Avenue And Eleventh, San Diego, Ca 92101                            | City of SD | No     |
| 11 | DSD112  | TRAFFIC LIGHT W/ STREET LIGHT | 32.711663 | -117.155499 | 1002 Market, Northeast Corner Tenth And Market, "Grocery Outlet", San Diego, Ca 92101                           | City of SD | No     |
| 12 | DSD113  | STREET LIGHT                  | 32.710353 | -117.157499 | 712 Cedar Street, San Diego, Ca 92101                                                                           | City of SD | No     |
| 13 | DSD114  | TRAFFIC LIGHT W/ STREET LIGHT | 32.711665 | -117.15823  | 620 Market Street, Northeast Corner Seventh Avenue And Market Street, San Diego, Ca 92101                       | City of SD | No     |
| 14 | DSD116  | STREET LIGHT                  | 32.710487 | -117.163012 | 222 Island Avenue, Northwest Corner Island Avenue And Second Avenue, San Diego, Ca 92101                        | City of SD | No     |
| 15 | DSD117  | STREET LIGHT                  | 32.710564 | -117.159134 | 505 Sixth Avenue, Northeast Corner Island Avenue And Sixth Street, "Tivola Bar & Grill", San Diego, Ca 92101    | City of SD | No     |
| 16 | DSD118  | TRAFFIC LIGHT W/ STREET LIGHT | 32.711597 | -117.161193 | 310 Market Street, Northwest Corner Market Street And Fourth, "Lion Club San Diego", San Diego, Ca 92101        | City of SD | No     |
| 17 | DSD119  | STREET LIGHT                  | 32.706202 | -117.154482 | 1255 Imperial Ave Southeast Corner Imperial & 11Th, San Diego, Ca 92101                                         | City of SD | No     |
| 18 | DSD120  | TRAFFIC LIGHT W/ STREET LIGHT | 32.713764 | -117.155522 | 811 Tenth Ave, San Diego, Ca 92101, Usa                                                                         | City of SD | No     |
| 19 | DSD121  | TRAFFIC LIGHT W/ STREET LIGHT | 32.709512 | -117.159124 | 435 Sixth Avenue, Northeast Corner "J" Street And Sixth Avenue, "Jsix Honest Food & Drink", San Diego, Ca 92101 | City of SD | No     |
| 20 | DSD124  | STREET LIGHT W/ CROSS WALK    | 32.705766 | -117.157133 | 100 Park Boulevard (Petco Park) Tony Gwynn & Park Blvd, San Diego, Ca 92101                                     | City of SD | No     |
| 21 | DSD125  | TRAFFIC LIGHT W/ STREET LIGHT | 32.71594  | -117.171265 | 928 W Broadway, San Diego, Ca 92101                                                                             | City of SD | No     |
| 22 | DSD201  | TRAFFIC LIGHT W/ STREET LIGHT | 32.715936 | -117.172871 | 1158 W Broadway, San Diego, CA 92101                                                                            | City of SD | No     |
| 23 | DSD202  | STREET LIGHT                  | 32.71469  | -117.169111 | 899 Kettner Blvd, Northeast Corner Kettner Blvd And "E" Street, San Diego, Ca 92101                             | City of SD | No     |

|    |        |                               |           |             |                                                                                                                        |            |    |
|----|--------|-------------------------------|-----------|-------------|------------------------------------------------------------------------------------------------------------------------|------------|----|
| 24 | DSD203 | STREET LIGHT                  | 32.711583 | -117.166649 | 620 State Street, Northwest Coner State Street And Market Street, San Diego, Ca 92101                                  | City of SD | No |
| 25 | DSD204 | STREET LIGHT                  | 32.714504 | -117.166608 | 850 State Street State Street & E Street, San Diego, Ca 92101                                                          | City of SD | No |
| 26 | DSD206 | STREET LIGHT                  | 32.712631 | -117.168395 | 655 "G" Street, Northside "G" Street At India Street, San Diego, Ca 92101                                              | City of SD | No |
| 27 | DSD207 | TRAFFIC LIGHT W/ STREET LIGHT | 32.712633 | -117.166657 | 750 State Street, Northwest Corner "G" Street And State Street, San Diego, Ca 92101                                    | City of SD | No |
| 28 | DSD208 | STREET LIGHT                  | 32.713474 | -117.165537 | 757 Union Street, Souteast Coner "F" Street And Union Street, San Diego, Ca 92101                                      | City of SD | No |
| 29 | DSD209 | STREET LIGHT                  | 32.710552 | -117.165536 | 200 Island Ave Northeast Corner Island & Union Street, San Diego, Ca 92101                                             | City of SD | No |
| 30 | DSD210 | TRAFFIC LIGHT W/ STREET LIGHT | 32.709471 | -117.164967 | 333 Harbor Drive @ Marriot Marquis, San Diego, Ca 92101                                                                | City of SD | No |
| 31 | DSD211 | TRAFFIC LIGHT W/ STREET LIGHT | 32.711304 | -117.168304 | 600 Harbor Drive, Northwest Corner Market Street And Harbor Drive, "Kansas City Bbq", San Diego, Ca 92101              | City of SD | No |
| 32 | DSD301 | STREET LIGHT                  | 32.721924 | -117.156439 | 1560 Ninth Avenue, Southeast Corner Cedar Street & Ninth Avenue, San Diego, Ca 92101                                   | City of SD | No |
| 33 | DSD302 | STREET LIGHT                  | 32.721041 | -117.157407 | 750 Beech Street, Northeast Corner Beech Street & Eighth Avenue, San Diego, Ca 92101                                   | City of SD | No |
| 34 | DSD303 | STREET LIGHT                  | 32.720886 | -117.155693 | 942 Beech Street, Southeast Corner Beech Street & Tenth Avenue, San Diego, Ca 92101                                    | City of SD | No |
| 35 | DSD304 | TRAFFIC LIGHT W/ STREET LIGHT | 32.721901 | -117.160076 | 1567 Fifth Avenue, Southeast Corner Cedar Street & Fifth Avenue, San Diego, Ca 92101                                   | City of SD | No |
| 36 | DSD305 | STREET LIGHT                  | 32.722108 | 32.722108   | 712 Cedar Street, Northeast Corner Cedar Street & Seventh Avenue, San Diego, Ca 92101                                  | City of SD | No |
| 37 | DSD306 | STREET LIGHT                  | 32.72001  | 117.16123   | 1409 Fourth Avenue, Northwest Corner Ash Street & Fourth Avenue, "San Diego Superior Court", San Diego, Ca 92101       | City of SD | No |
| 38 | DSD307 | TRAFFIC LIGHT W/ STREET LIGHT | 32.72102  | -117.16373  | 1455 First Avenue, Northeast Corner Beech Street & First Avenue, San Diego, Ca 92101                                   | City of SD | No |
| 39 | DSD308 | STREET LIGHT W/ CROSS WALK    | 32.72205  | -117.16126  | 350 Cedar Street, Northwest Corner Cedar Street & Fourth Avenue, California Western School Of Law, San Diego, Ca 92101 | City of SD | No |
| 40 | DSD309 | STREET LIGHT                  | 32.720817 | -117.163031 | 1450 Second Avenue, Southwest Corner Beech Street & Seventh Avenue, San Diego, Ca 92101                                | City of SD | No |
| 41 | DSD310 | TRAFFIC LIGHT W/ STREET LIGHT | 32.719943 | -117.163974 | 109 West Ash Street, Northwest Corner Ash Street & First Avenue, San Diego, Ca 92101                                   | City of SD | No |
| 42 | DSD311 | TRAFFIC LIGHT W/ STREET LIGHT | 32.718948 | -117.162831 | 1313 2Nd Ave, San Diego, Ca 92101                                                                                      | City of SD | No |
| 43 | DSD312 | STREET LIGHT                  | 32.717855 | -117.164004 | 116 W B St, San Diego, Ca 92101                                                                                        | City of SD | No |
| 44 | DSD313 | TRAFFIC LIGHT W/ STREET LIGHT | 32.716657 | -117.163034 | 183 C St, San Diego, Ca 92101                                                                                          | City of SD | No |
| 45 | DSD314 | STREET LIGHT W/ CROSS WALK    | 32.719826 | -117.158257 | 793 Ash St, San Diego, Ca 92101                                                                                        | City of SD | No |
| 46 | DSD315 | TRAFFIC LIGHT W/ STREET LIGHT | 32.715827 | -117.161002 | 1013 4Th Ave, San Diego, Ca 92101                                                                                      | City of SD | No |
| 47 | DSD316 | TRAFFIC LIGHT W/ STREET LIGHT | 32.716827 | -117.160117 | 1109 5Th Ave, San Diego, Ca 92101                                                                                      | City of SD | No |

|    |        |                                  |           |             |                                                                                                           |            |    |
|----|--------|----------------------------------|-----------|-------------|-----------------------------------------------------------------------------------------------------------|------------|----|
| 48 | DSD317 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.716845 | -117.158294 | 1109 7Th Ave, San Diego, Ca 92101                                                                         | City of SD | No |
| 49 | DSD318 | STREET LIGHT<br>W/ CROSS<br>WALK | 32.717889 | -117.159194 | 1209 6Th Ave, San Diego, Ca 92101                                                                         | City of SD | No |
| 50 | DSD401 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.717873 | -117.169104 | 685 W B St, San Diego, Ca 92101                                                                           | City of SD | No |
| 51 | DSD402 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.716847 | -117.168207 | 1115 India St, San Diego, Ca 92101                                                                        | City of SD | No |
| 52 | DSD403 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.715592 | -117.169081 | 687 W Broadway, San Diego, Ca 92101                                                                       | City of SD | No |
| 53 | DSD404 | STREET LIGHT                     | 32.717321 | -117.167326 | 1127 Columbia St, San Diego, Ca 92101                                                                     | City of SD | No |
| 54 | DSD405 | STREET LIGHT                     | 32.717887 | -117.166422 | 1213 State St, San Diego, Ca 92101                                                                        | City of SD | No |
| 55 | DSD406 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.71588  | -117.167499 | 1015 State St, San Diego, Ca 92101                                                                        | City of SD | No |
| 56 | DSD407 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.718742 | -117.165487 | 281 W A St, San Diego, Ca 92101                                                                           | City of SD | No |
| 57 | DSD408 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.722045 | -117.164662 | 180 W Cedar St, San Diego, Ca 92101                                                                       | City of SD | No |
| 58 | DSD409 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.719789 | -117.165501 | 316 W Ash St, San Diego, Ca 92101                                                                         | City of SD | No |
| 59 | DSD410 | STREET LIGHT                     | 32.723704 | -117.167624 | 1756 Columbia St, San Diego, Ca 92101                                                                     | City of SD | No |
| 60 | DSD411 | STREET LIGHT                     | 32.724793 | -117.166961 | 1880 State St, San Diego, Ca 92101                                                                        | City of SD | No |
| 61 | DSD412 | STREET LIGHT                     | 32.723055 | -117.165736 | 1726 Union St, San Diego, Ca 92101                                                                        | City of SD | No |
| 62 | DSD413 | STREET LIGHT                     | 32.724121 | -117.169286 | 787 W Fir St, San Diego, Ca 92101                                                                         | City of SD | No |
| 63 | DSD415 | STREET LIGHT                     | 32.721879 | -117.166389 | 387 W Cedar St, San Diego, Ca 92101                                                                       | City of SD | No |
| 64 | DSD416 | STREET LIGHT                     | 32.726607 | -117.168473 | 682 W Hawthorn St, San Diego, Ca 92101                                                                    | City of SD | No |
| 65 | DSD417 | STREET LIGHT                     | 32.725746 | -117.171228 | 2090 California St, San Diego, Ca 92101                                                                   | City of SD | No |
| 66 | DSD418 | STREET LIGHT                     | 32.724557 | -117.167799 | 1882 Columbia St, San Diego, Ca 92101                                                                     | City of SD | No |
| 67 | DSD419 | STREET LIGHT                     | 32.722057 | -117.169096 | 1601 Kettner Blvd Northeast Corner Kettner &<br>Cedar St., San Diego, Ca 92101                            | City of SD | No |
| 68 | DSD420 | STREET LIGHT<br>W/ CROSS<br>WALK | 32.718721 | -117.167509 | 514 W A St, San Diego, Ca 92101                                                                           | City of SD | No |
| 69 | DSD421 | STREET LIGHT                     | 32.72102  | -117.165536 | 318 W Beech St, San Diego, Ca 92101                                                                       | City of SD | No |
| 70 | DSD422 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.717596 | -117.172872 | 1243 N Harbor Dr, San Diego, CA 92101                                                                     | City of SD | No |
| 71 | DSD501 | STREET LIGHT                     | 32.753752 | -117.167133 | 200 W Arbor Dr, San Diego 92101                                                                           | City of SD | No |
| 72 | DSD502 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.715856 | -117.15209  | 1400 Broadway Nw Corner Broadway & 14Th<br>Street, San Diego, Ca 92101                                    | City of SD | No |
| 73 | DSD503 | STREET LIGHT                     | 32.716682 | -117.152067 | 1343 C Street Sw Corner C Street & 14Th<br>Street, San Diego, Ca 92101                                    | City of SD | No |
| 74 | DSD504 | STREET LIGHT                     | 32.715875 | -117.150311 | 1401 Broadway Ne Corridor 15Th Street &<br>Broadway San Diego Police Headquarters, San<br>Diego, Ca 92101 | City of SD | No |
| 75 | DSD505 | TRAFFIC LIGHT W/<br>STREET LIGHT | 32.716704 | -117.149581 | 1081 16Th Street Sw Corner C Street & 16Th<br>Street San Diego City College, San Diego, Ca<br>92101       | City of SD | No |

|    |        |                               |             |             |                                                                               |            |    |
|----|--------|-------------------------------|-------------|-------------|-------------------------------------------------------------------------------|------------|----|
| 76 | DSD506 | STREET LIGHT                  | 32.751369   | -117.161548 | 4077 4Th Ave, San Diego, Ca 92103, San Diego, Ca 92101                        | City of SD | No |
| 77 | DSD507 | STREET LIGHT                  | 32.74906    | -117.16401  | 103 Washington St, San Diego, Ca 92103, San Diego, Ca 92101                   | City of SD | No |
| 78 | DSD508 | TRAFFIC LIGHT W/ STREET LIGHT | 32.713771   | -117.151867 | 841 14Th Street Ne Corner 14Th Street & F Street, San Diego, Ca 92101         | City of SD | No |
| 79 | DSD509 | TRAFFIC LIGHT W/ STREET LIGHT | 32.714611   | -117.152769 | 893 13Th St, San Diego, Ca 92101                                              | City of SD | No |
| 80 | DSD510 | STREET LIGHT                  | 32.741573   | -117.163784 | 3509 1St Ave, San Diego, Ca 92103, San Diego, Ca 92101                        | City of SD | No |
| 81 | DSD511 | STREET LIGHT                  | 32.751514   | -117.150501 | 4093 Richmond St, San Diego, Ca 92103, San Diego, Ca 92101                    | City of SD | No |
| 82 | DSD512 | STREET LIGHT                  | 32.716876   | -117.153942 | 1136 C Street Nw Corner C Sstreet & Park Blvd, San Diego, Ca 92101            | City of SD | No |
| 83 | DSD513 | STREET LIGHT                  | 32.748698   | -117.151172 | 3909 Richmond St, San Diego, Ca 92103, San Diego, Ca 92101                    | City of SD | No |
| 84 | DSD514 | TRAFFIC LIGHT W/ STREET LIGHT | 32.712745   | -117.152776 | 700 13Th Street Ne Corner G Street & 13Th Street, San Diego, Ca 92101         | City of SD | No |
| 85 | DSD515 | TRAFFIC LIGHT W/ STREET LIGHT | 32.711442   | -117.152742 | 1330 Market Street, San Diego, Ca 92101                                       | City of SD | No |
| 86 | DSD516 | STREET LIGHT                  | 32.712724   | -117.150302 | 735 15Th Street Northeast Corner 15 St & G Street, San Diego, Ca 92101        | City of SD | No |
| 87 | DSD517 | STREET LIGHT                  | 32.711689   | -117.150295 | 1606 Market Street Ne Corner Market Street & 15Th Street, San Diego, Ca 92101 | City of SD | No |
| 88 | DSD518 | STREET LIGHT                  | 32.74653    | -117.151149 | 3757 Richmond St, San Diego, Ca 92103, San Diego, Ca 92101                    | City of SD | No |
| 89 | DSD519 | STREET LIGHT                  | 32.711649   | -117.148701 | 540 16Th Street Nw Corner 17Th Street & Market Street, San Diego, Ca 92101    | City of SD | No |
| 90 | DSD520 | STREET LIGHT                  | 32.710379   | -117.149571 | 540 16Th Street Sw Corner Island Ave & 16Th Street, San Diego, Ca 92101       | City of SD | No |
| 91 | DSD521 | STREET LIGHT                  | 32.71798    | -117.14944  | 1255 16Th Street Ne Corner B Street & 16Th Street, San Diego, Ca 92101        | City of SD | No |
| 92 | DSD522 | STREET LIGHT                  | 32.710376   | -117.153912 | 453 13Th Street, Se Corner Island Ave & 13Th Street, San Diego, Ca 92101      | City of SD | No |
| 93 | DSD122 | STREET LIGHT                  | 32.71365944 | 117.1728763 | 960 N Harbor Dr, San Diego, CA 92101                                          | City of SD | No |
| 94 | DSD205 | STREET LIGHT                  | 32.71025786 | 117.1712644 | 960 N Harbor Dr, San Diego, CA 92101                                          | City of SD | No |

**Exhibit B: Site Plans**

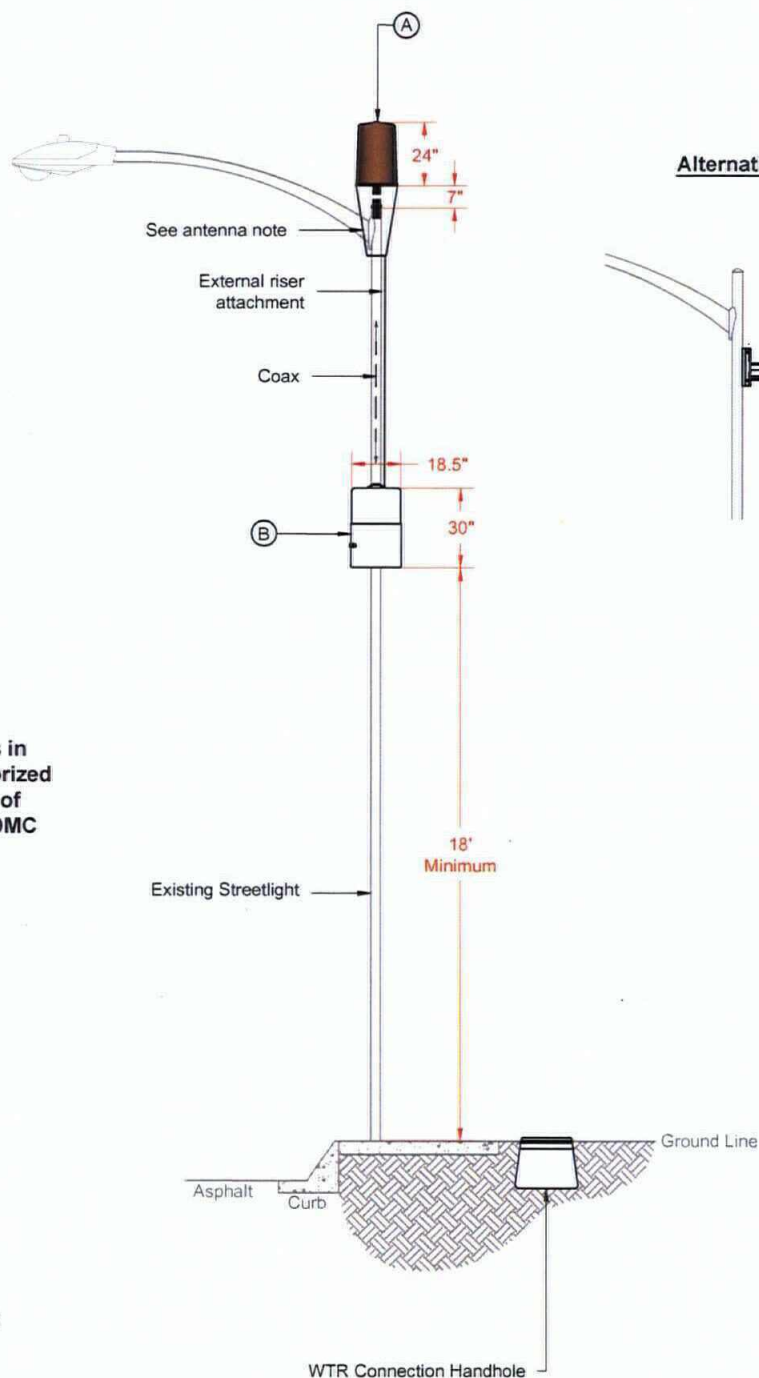
**See attached.**

**Description:**  
Existing Streetlight with Radio Equipment Shroud attached at 18' 0" above ground level. Antenna with kit attached on top of the existing streetlight. Antenna will not exceed the height of 30' 0" west of Interstate 5 per San Diego requirements.  
\*Height of streetlight may vary per location.

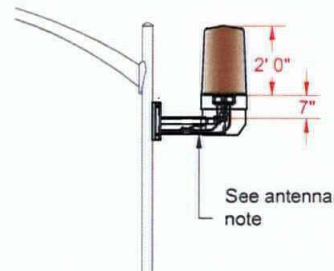
"As approved by Planning Director"

**Antenna Note**

1. Optional shroud (dashed) to conceal coaxial cables and splitter.



**Alternative Mounting**



**Note:**

All antenna details / schematics in this Exhibit "B" shall be categorized as exempt from the application of Section 141.0420(a)(2) of the SDMC and shall be subject to an administrative review.

A. Additional antenna & mount types shown on sheet 3.

B. Equipment type shown on sheet 4.

**WILCON**  
624 SOUTH GRAND AVENUE, SUITE 2500  
LOS ANGELES, CA 90017  
D: +1.888.600.2800  
E: INFO@WILCON.COM

**WILCON**  
**Approved Antenna & Equipment Configurations**  
**Exhibit "B"**

\*Unabridged wireless master plan on file with city.

|                                                                                     |                   |
|-------------------------------------------------------------------------------------|-------------------|
| SITE ADDRESS: Varies                                                                |                   |
| TITLE: Standard Street Light Remote Unit with Shroud Non Metered Unit Configuration |                   |
| CONTRACT NO.                                                                        | SHEET<br><b>1</b> |
| DRAWING NO.                                                                         |                   |
| DATE: 7/31/15                                                                       |                   |
| SCALED: As shown                                                                    |                   |
| PLOT DATE:                                                                          |                   |

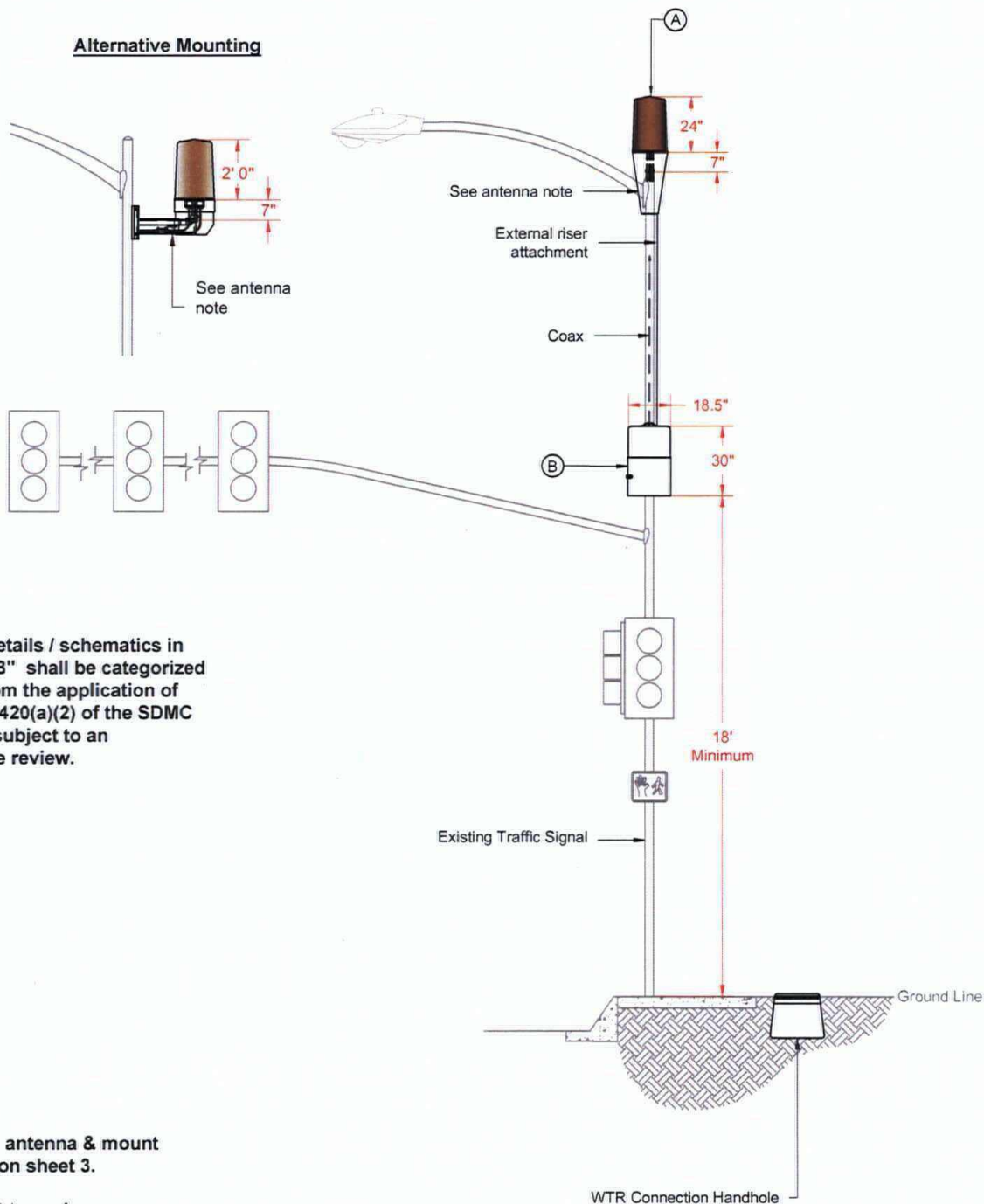
**Description:**

Existing Traffic Signal (Case 5) with Radio Equipment Shroud attached at 18' 0" above ground level. Antenna with kit attached on top of the existing traffic signal. Antenna will not exceed the height of 30' 0" west of Interstate 5 per San Diego requirements. \*Height of traffic signal may vary per location.

"As approved by Planning Director"

**Antenna Notes**

1. Optional shroud (dashed) to conceal coaxial cables and splitter.

**Alternative Mounting****Note:**

All antenna details / schematics in this Exhibit "B" shall be categorized as exempt from the application of Section 141.0420(a)(2) of the SDMC and shall be subject to an administrative review.

A. Additional antenna & mount types shown on sheet 3.

B. Equipment type shown on sheet 4.

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|               |                                                                                 |
|---------------|---------------------------------------------------------------------------------|
| SITE ADDRESS: | Varies                                                                          |
| TITLE:        | Traffic Light Pole<br>Remote Unit with Shroud<br>Non Metered Unit Configuration |
| CONTRACT NO.  |                                                                                 |
| DRAWING NO.   |                                                                                 |
| DATE:         | 7/31/15                                                                         |
| SCALED:       | As shown                                                                        |
| PLOT DATE:    |                                                                                 |

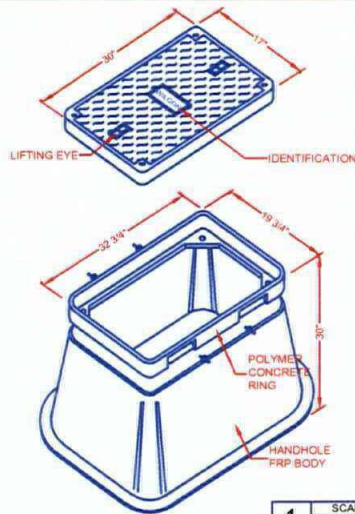
### CONNECTION HANDHOLE (FLUSH MOUNT) (PRIVATE)

#### COVER FEATURES:

- \* PW - 10,400 LBS. WHEEL LOAD ON 10" X 10" PLATE.
- \* APPROX. WT. = 72 LBS.
- \* POLYMER CONCRETE
- \* ONE PIECE COVER
- \* FOUR BOLT DOWN
- \* COLOR: CONCRETE GREY
- \* NON - SKID SURFACE
- \* LID TO HAVE H-20 TRAFFIC LOAD FRICTION COEFFICIENT TO BE 0.5 OR MORE

#### HANDHOLE FEATURES:

- \* POLYMER CONCRETE RING AND FIBERGLASS REINFORCED POLYMER BODY
- \* COLOR OF RING: CONCRETE GREY
- \* APPROX. WT. = 123 LBS.



1 SCALE  
N.T.S.

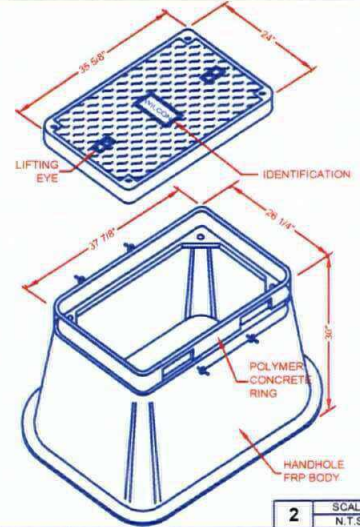
### VAULT DETAIL (FLUSH MOUNT) (PRIVATE)

#### COVER FEATURES:

- \* PW - 10,400 LBS. WHEEL LOAD ON 10" X 10" PLATE.
- \* APPROX. WT. = 72 LBS.
- \* POLYMER CONCRETE
- \* ONE PIECE COVER
- \* FOUR BOLT DOWN
- \* COLOR: CONCRETE GREY
- \* NON - SKID SURFACE
- \* LID TO HAVE H-20 TRAFFIC LOAD FRICTION COEFFICIENT TO BE 0.5 OR MORE

#### HANDHOLE FEATURES:

- \* POLYMER CONCRETE RING AND FIBERGLASS REINFORCED POLYMER BODY
- \* COLOR OF RING: CONCRETE GREY
- \* APPROX. WT. = 123 LBS.



2 SCALE  
N.T.S.

### Kathrein Scala Dualband X-pol Omni Antenna (Model #840-10510 / 840 10511)



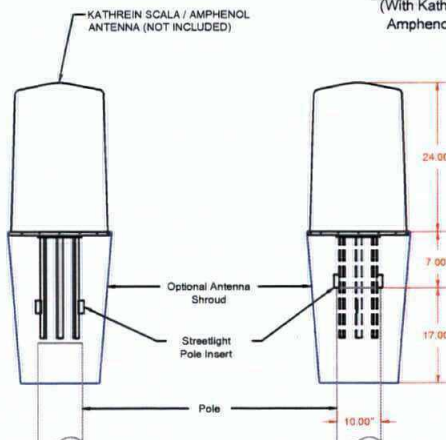
3 SCALE  
N.T.S.

### Amphenol Dual Band Tri Sector Cylindrical Antenna (Model # CWT070X06Fxy-0)



4 SCALE  
N.T.S.

### Antenna Kit 008H (With Kathrein Scala / Amphenol Antenna)

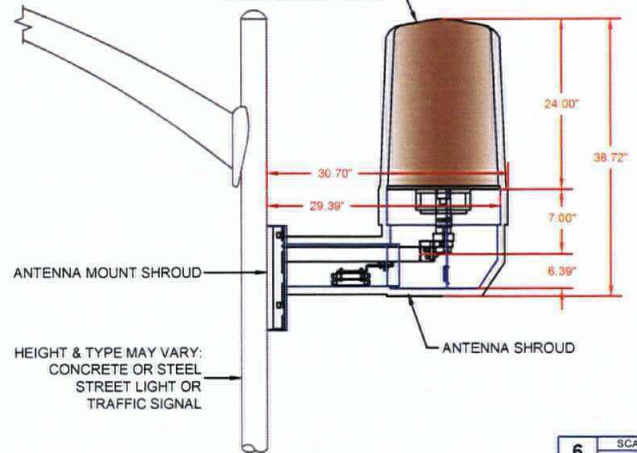


\*Optional shroud at city's discretion.

5 SCALE  
N.T.S.

### FITS KATHREIN SCALA #840-10510 AND SIMILAR ANTENNA BASES (NOT INCLUDED IN KIT)

### Antenna Kit 007J Shroud (Rendered Detail)



6 SCALE  
N.T.S.

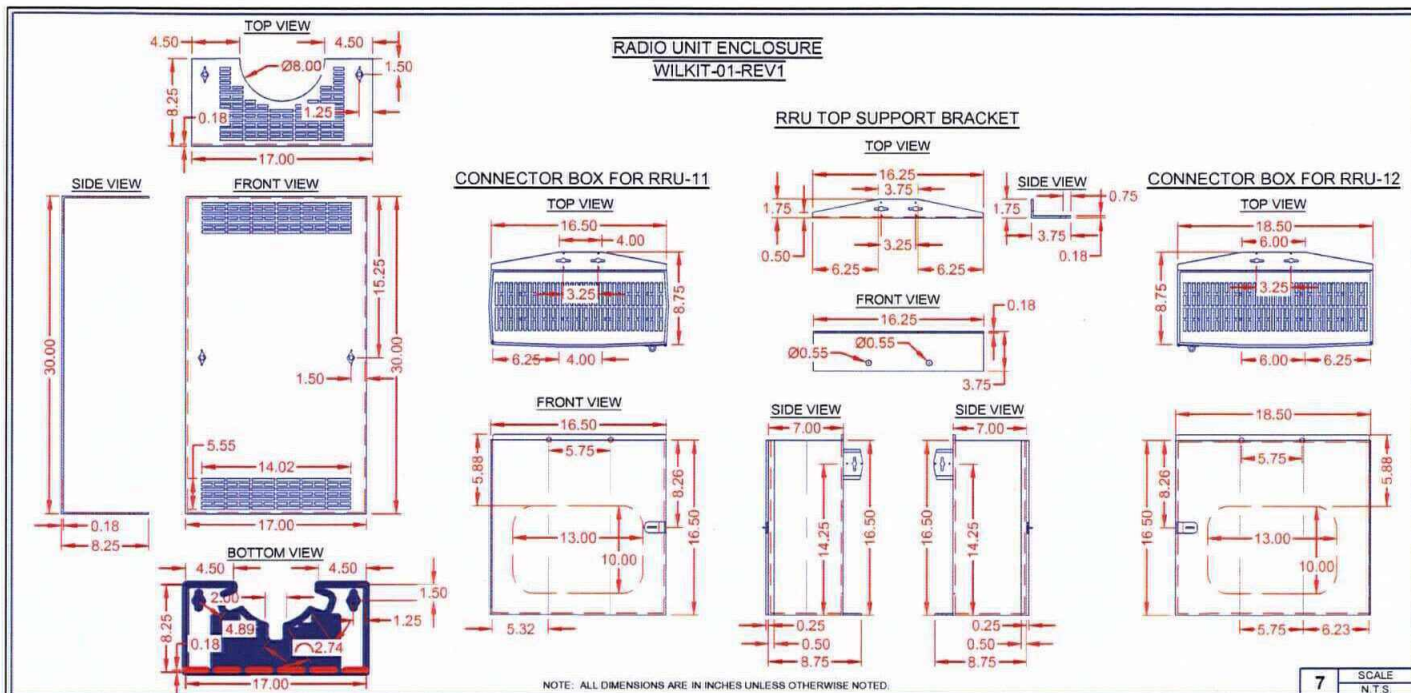
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## WILCON Approved Antenna & Equipment Configurations Exhibit "B"

\*Unabridged wireless master plan on file with city.

"As approved by Planning Director"

|               |          |
|---------------|----------|
| SITE ADDRESS: | Varies   |
| TITLE:        | Details  |
| CONTRACT NO.  | SHEET    |
| DRAWING NO.   | 3        |
| DATE:         | 7/31/15  |
| SCALED:       | As shown |
| PLOT DATE:    |          |



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**Exhibit "B"**

\*Unabridged wireless master plan on file with city.

"As approved by Planning Director"

|                                                         |          |
|---------------------------------------------------------|----------|
| SITE ADDRESS: <span style="float: right;">Varies</span> |          |
| TITLE: <span style="float: right;">Details</span>       |          |
| CONTRACT NO.                                            | <b>4</b> |
| DRAWING NO.                                             |          |
| DATE: 7/31/15                                           |          |
| SCALED: As shown                                        |          |
| PLOT DATE:                                              |          |

**Exhibit C: Sample Site Addendum**

**ADDENDUM TO  
CITY OF SAN DIEGO TELECOM MASTER USE AND OCCUPANCY PERMIT**

**EXHIBIT C: Site Description**

The following Site shall be subject to the terms and conditions of that certain CITY OF SAN DIEGO MASTER USE AND OCCUPANCY PERMIT ("Permit") by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), FREEDOM TELECOMMUNICATIONS LLC, a Delaware limited liability company dba WILCON ("PERMITTEE"), and dated \_\_\_\_\_:

Pursuant to Section 6 of the Permit, the Annual Use Fee for Space on City-Owned Light Poles shall be calculated from the date that all approvals required for construction or installation to commence have been obtained from CITY'S Development Services Department, which are attached hereto.

Approval Date: \_\_\_\_\_

Project No.: \_\_\_\_\_

CITY Site No.: \_\_\_\_\_

Carrier Site No.: \_\_\_\_\_

Location: \_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **Exhibit D: Interference Protection Requirements**

1. **Interference.** Anytime during the term of this Master Permit, PERMITTEE 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 equipment, transmission frequencies that are currently being operated on-site, and similar or other relevant data from the licensees and/or users operating on-site. The information required to compile this report, including transmit frequencies currently operated on-site, may require collection of data from other licensees operating on-site. A list of other licensees within the Permit Areas can be obtained from CITY. CITY is not responsible for any omitted data provided for the purpose of creating this Report. If required, the Report shall be provided to CITY'S General Services Department, Communications Division, Senior Communications Engineer.
2. **Pre-installation Notification.** PERMITTEE shall notify all licensees and/or users operating within the Permit Areas of any proposed installation and/or modification at least fourteen (14) calendar days prior thereto. A list of all licensees and/or users operating within the Permit Areas may be obtained from CITY and used to compile a notification list. The notification shall be in the form of a letter to each listed licensee and/or user operating within the Permit Areas, giving a technical data summary of the proposed new and/or modified equipment and/or installation to be installed within the Permit Areas, and shall specify the approximate date of the installation or modification. An additional notification letter shall be sent to CITY'S Communication Engineer at CITY'S General Services Department, Communications Division. This letter shall include a list of all licensees and/or users notified. PERMITTEE shall make complete arrangements and conduct all tests and operations in accordance with all applicable Federal (including FCC) Rules and Regulations.
3. **Radio Frequency Interference to CITY Radio Equipment.** The radio equipment use proposed by PERMITTEE shall not directly or indirectly result in degraded technical performance of CITY'S existing radio equipment installed within the Permit Areas or used in the general area. Resulting degraded technical performance in this instance includes, but is not limited to: (a) detectable or measurable received intermodulation; (b) audio distortion or noise; and (c) receiver desensitization in excess of 3.0 dB with respect to 12dB SINAD test.
4. **Modifications to Equipment.** Modifications to transmitting equipment (including, but not limited to, those which change effective radiated power, transmitter frequency, transmitter modulation, and/or transmitter spurious and harmonic emissions) may require re-notification to existing licensees and/or users operating within the Permit Areas, as well as a new Report.
5. **Resulting Interference.** Should an interference problem occur within the Permit Areas (or surrounding area) as a result of any new and/or modified equipment and/or installation, PERMITTEE shall initiate mutually agreeable actions among the affected parties to mitigate or resolve the interference problem. If harmful interference cannot be resolved, CITY may recognize the right of other authorized users and, in CITY'S sole discretion, withhold consent or

disallow use of the new and/or modified equipment and/or installation, pending settlement of the interference problems between PERMITTEE and other authorized users.

6. No Obligation by CITY for Loss. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by PERMITTEE as a result of the foregoing interference protection requirements, and PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY'S enforcement thereof.

### **Exhibit E: Emergency Maintenance Procedures**

If PERMITTEE discovers that any of the Communications Equipment is damaged, PERMITTEE 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 **PERMITTEE'S Network Operation Call Center at 1-888-953-4237 or [ncc@wilcon.com](mailto:ncc@wilcon.com)**.

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

If the 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 Master Permit.

If CITY'S telecommunications and/or Traffic Control systems require emergency repair or maintenance by CITY, CITY shall employ use of PERMITTEE'S emergency shut off switch, per Section 18.3, and notify PERMITTEE immediately at the number above.

PERMITTEE shall not unreasonably interfere with pedestrian or vehicle traffic while installing or maintaining the Communications Equipment.

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

**Exhibit F: Lease Agreement for Dark Fiber**

**See attached.**

## LEASE AGREEMENT FOR DARK FIBER

**THIS LEASE AGREEMENT FOR DARK FIBER** ("**Agreement**"), to be effective on the first day of the first month following the date of execution by the Lessee ("**Effective Date**"), once the Agreement is signed by the San Diego City Attorney, by and between FREEDOM TELECOMMUNICATIONS LLC DBA WILCON, a Delaware limited liability company with primary offices at 624 South Grand Avenue, Suite 2500, Los Angeles, CA 90017 ("**Provider**"), and THE CITY OF SAN DIEGO, a California municipal corporation with primary offices at 202 C Street, San Diego, CA 92101 ("**Lessee**") with respect to the following:

### RECITALS:

- A. Provider has constructed and will continue to construct a fiber optic infrastructure, including but not limited to the dark fiber, conduit, handholes, manholes, and other dark fiber-related appurtenances and components throughout the State of California including but not limited to within the city limits of San Diego, California ("**Fiber System**").
- B. Provider and Lessee are entering into that certain City of San Diego Master Use and Occupancy Permit ("**Master Permit**") whereby Lessee will grant Provider the right to use certain Lessee-owned light poles located in the public right-of-way for the construction, operation and maintenance of the Communications Equipment (as defined therein), including attaching the Communications Equipment to Lessee-owned Street Light Poles (as defined therein) in order to provide better service to wireless customers.
- C. As an inducement for Lessee to enter into the Master Permit under the terms and conditions set forth therein, Provider desires to provide to Lessee, and Lessee desires to obtain from Provider, a lease (at no cost) in certain dark fiber optic strands within the Fiber System.

**NOW THEREFORE**, in consideration of the mutual promises set forth below, the parties hereby agree as follows:

### SECTION 1. LEASE OF DARK FIBER.

#### 1.1 Description of Dark Fiber.

Provider hereby grants to Lessee a lease ("**Lease**") for the exclusive use of certain strands of dark fiber optic cable along specified routes in the Fiber System (the "**City Fiber**") as set forth in the Dark Fiber Addendum attached hereto as **Exhibit A**, along the routes set forth in the Route Maps attached as **Exhibit B**.

## **1.2 Applicability of this Agreement.**

This Agreement, and all of the terms and conditions contained herein, apply solely to the parties' activities, obligations, and rights as it relates to the Lessee's use of the City Fiber. This Agreement shall not modify any terms and conditions of any other agreements, permits, or contracts that Provider may have entered into, or obtained from Lessee to install and/or construct the Fiber System. Additionally, by entering into this Agreement, the Lessee, and its City Council are in no way obligating themselves 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 Fiber System. Discretionary action includes, but is not limited to any rezoning, variance, environmental clearance, or any other governmental approval that may be required for Provider's construction, maintenance, use and occupancy of the right of way, or any other activity required for the operation of the Fiber System. Provider shall diligently seek, at its sole cost and expense, all entitlements and actions from both the Lessee and other governmental agencies, as are necessary for Provider to construct, maintain, use and operate the Fiber System.

## **1.2 Permitted Lease Activities.**

This Lease authorizes the Lessee to use the City Fiber for any lawful purpose provided however that in no event whatsoever shall Lessee directly or indirectly transfer, sell, assign, swap, exchange, lease, sublease, license, sublicense, resell or grant indefeasible or other rights of use in or to all or any part of the City Fiber to any commercial enterprise, including but not limited to any regulated carrier or fiber optic based enterprise, without the prior written consent of Provider, which shall be granted at Provider's sole discretion. Any action in violation of this Section 1.2 shall constitute a material breach of this Agreement and shall, in addition to any other remedies available to it, entitle Provider to terminate this Agreement without any liability to Lessee.

## **1.3 Lessee Responsibilities.**

Lessee shall be solely responsible for the purchase, installation and maintenance of all terminals, patch cords, fiber optic or copper cable, and other peripheral equipment required by Lessee to interconnect with each Lateral Cable (defined in paragraph 1.5). In addition, Lessee shall, at its own expense, provide all labor, materials and equipment for any specialized construction that may be required at Lessee's Demarcs including, but not limited to, the installation of new conduit or core drilling and all cabling and infrastructure required from each Demarc. For purposes of this Agreement, "**Demarc**" shall mean a point at which the operational control or ownership of the facilities changes from Provider to Lessee. Provider shall reasonably cooperate with Lessee at each of the Demarcs to enable Lessee to order and install any necessary interconnects from the Demarc to Lessee's equipment, including providing any LOA letters and access to the Demarcs necessary to complete such interconnects.

## **1.4 Installation of City Fiber: Acceptance Tests.**

A. **Acceptance Testing**. Following the installation of the City Fiber and each Lateral Cable (as defined in Section 1.5 herein), Provider shall conduct acceptance testing ("**Acceptance Testing**") to verify that the City Fiber and each Lateral Cable is installed and operational in accordance with the specifications listed in the Fiber Splicing and Testing Standards,

Specifications and Procedures attached hereto as **Exhibit C** (the “**Specifications**”). Provider shall provide Lessee prior notice of the date and time of Acceptance Testing and Lessee shall have the right to have representatives present to observe the Acceptance Testing. At the time when Provider notifies Lessee that the City Fiber and each Lateral Cable has been installed and are performing in all respects in accordance with the Specifications, Provider shall deliver the Acceptance Testing results (“**Test Results**”) to Lessee.

B. Lessee’s Obligation to Notify within Evaluation Period. If Lessee determines that the City Fiber and each Lateral Cable has not been installed and/or is not operational in accordance with the Specifications, then within ten (10) days of its receipt of the Test Results (the “**Evaluation Period**”), Lessee shall notify Provider that such results are unacceptable and shall specify in reasonable detail the portions of the City Fiber and each Lateral Cable that are out of compliance with the Specifications. Provider shall promptly take such action as shall be reasonably necessary with respect to such portion of the City Fiber and each Lateral Cable, and complete corrective action as quickly as possible, to bring the installation and operating standards of such City Fiber and each Lateral Cable within the Specifications. After taking corrective action, Provider shall notify Lessee of the completion of corrective action and shall provide Lessee with prior notice of the Acceptance Testing, and Lessee shall have the right to have representatives present to observe the Acceptance Testing. The cycle described above of testing, taking corrective action and re-testing shall take place as necessary to ensure that the City Fiber and each Lateral Cable operate within the parameters of the Specifications.

C. Acceptance Date. On the date that Lessee either: (i) provides written notice of its acceptance of the City Fiber and each Lateral Cable, or (ii) fails to reject the Test Results within the Evaluation Period (as the same may be extended pursuant to the provisions of subsection B above), or (iii) uses the City Fiber and each Lateral Cable for any purpose other than testing, the Test Results shall be deemed accepted by Lessee and Provider shall have no further liability to Lessee related to Acceptance Testing (the “**Acceptance Date**”). The foregoing notwithstanding, no acceptance or deemed acceptance shall constitute a waiver by Lessee of Provider’s obligations of maintenance and repair of the City Fiber.

## **1.5 City Fiber Access.**

Where existing underground infrastructure permits, Provider shall provide Lessee access to the City Fiber at the Demarcs identified in **Exhibit B** (attached hereto) via coils of fiber strand cables (in a quantity to be mutually agreed upon) (each, a “Lateral Cable”) that Provider has spliced into Provider’s main Dark Fiber System, and specifically the portion of the Fiber System which is the City Fiber. Lessee will only have use of the Lateral Cables, and will not directly access Provider’s main Dark Fiber System. The Agreement does not include the right of Lessee to own, control, maintain, modify or revise the City Fiber, the right of physical access to the Fiber System (other than a Lateral Cable at the Demarcs), or the right to encumber the Fiber System in any manner, or the right to use other portions of the Fiber System beyond the City Fiber which is the subject of this Agreement. Except as set forth in Section 12.2 of this Agreement, any and all work with respect to the City Fiber and the Fiber System shall be performed solely by Provider. If Lessee, while exercising the rights provided Lessee under this Lease, or any of its contractors or consultants damages Provider’s Fiber System or any other property owned by Provider, Lessee shall reimburse Provider for all of its reasonable and documented cost of repairing the Fiber

System. If Provider, its employees, agents, contractors, consultants, or guests damage any property owned by Lessee, Provider shall reimburse Lessee for all of its reasonable and documented costs of repairing the property.

#### **1.6 Requirement of Lessee to Obtain Governmental Authority.**

Lessee shall have the obligation to obtain approvals of any governmental entity or other authority necessary to access and to use the City Fiber.

#### **1.7 Deliverables.**

The term “**Deliverables**” shall mean and refer to the documentation regarding the as-built condition of the City Fiber consisting of the following: (i) a map depicting the route of the City Fiber with street level details; and (ii) fiber assignments. At the time Provider provides Lessee with the Test Results, Provider shall provide to Lessee the Deliverables for the City Fiber.

#### **1.9 Ownership of City Fiber.**

As between the parties, the City Fiber will remain the sole and exclusive property of Provider, and nothing contained herein shall be interpreted to give or convey to Lessee any property right, title or interest in such City Fiber, which will at all times be and remain Provider’s personal property notwithstanding that it may be or become attached to or embedded in realty.

### **SECTION 2. TERM.**

The term of this Agreement shall be coterminous (“**Term**”) with the term of Master Permit as set forth in Section 4 of the Master Permit. Lessee may not continue use of the City Fiber past the expiration or earlier revocation of this Agreement. Any extension of the Term shall be for a period of time equal to any extension of the term of the Master Permit. Notwithstanding the foregoing, early termination of this Agreement by either party for any reason, shall not terminate the Master Permit, nor shall it relieve either party from fulfilling their obligations pursuant to the Master Permit.

### **SECTION 3. – REDUCTION OF ANNUAL USE FEE.**

#### **3.1 Reduction of Annual Use Fee.**

Upon delivery of the City Fiber on the Acceptance Date, the Annual Use Fee payable to Lessee by Provider under the terms of the Master Permit shall be reduced (“**Lease Compensation**”) in an amount equal to \$40.00 per month, per fiber strand, per fiber mile for the City Fiber used under this Agreement. This rate is subject to annual escalation of three and one half percent (3.5%) during the Term. The Parties hereby agree that Provider will not deliver any City Fiber to the Lessee until Provider has a minimum of 45 Approved Sites (as that term is defined in the Master Permit), such that the amount of the Annual Use Fee that Provider would owe to Lessee exceeds the maximum amount of the credit that Provider would be entitled to for

Lessee's use of the City Fiber. The actual amount of the reduction will be dependent on the quantity of City Fiber that has been delivered, however, the Parties agree that the reduction in any given Permit Year will not exceed the following amounts:

|                        |                                          |
|------------------------|------------------------------------------|
| Permit Year One:       | \$160,185.60                             |
| Permit Year Two:       | \$165,792.10                             |
| Permit Year Three:     | \$171,594.82                             |
| Permit Year Four:      | \$177,600.64                             |
| Permit Year Five:      | \$183,816.66                             |
| Permit Years Six – 10: | Subject to adjustment as set forth below |

If the Annual Use Fee is not increased subject to a market value adjustment pursuant to Section 6.1 of the Master Permit, then Provider and Lessee agree that the reduction of the Annual Use Fee shall continue to be calculated using the aforementioned rate, with an annual escalation of three and one-half percent (3.5%) for the remainder of the Term. In the event that an appraisal under the terms and conditions of the Master Permit is performed, Provider and Lessee agree to negotiate in good faith to determine the then current value of Lessee's use of the City Fiber for the remainder of the Term. If Provider and Lessee are unable to reach an agreement as to the current value, Lessee shall have the right in its sole discretion to terminate this Lease without further liability, which termination shall not limit or affect the term of the Master Permit.

If the formula for determining the reduction of the Annual Use Fee is re-negotiated for the remainder of the Term, the parties hereby agree that the only form of compensation for the use of City Fiber under this Lease shall be accomplished through the same method of reducing the Annual Use Fee payable by Provider to Lessee under the terms of the Master Permit. Under no circumstances, shall Lessee be required to pay for the use of the City Fiber in any form other than reducing the Annual Use Fee due to Lessee under the terms of the Master Permit.

### **3.3 Payments and Invoices.**

**Intentionally deleted.**

### **3.4 Nonpayment.**

**Intentionally deleted.**

### **3.5 Payment Disputes.**

**Intentionally deleted.**

### **3.6 Early Termination Liability.**

**Intentionally deleted.**

## **SECTION 4. TAXES, FEES, SURCHARGES AND OTHER GOVERNMENTAL IMPOSITIONS.**

### **4.1 Definition of Taxes.**

The term "**Taxes**" as used herein shall mean and refer to any and all taxes, fees, surcharges and other related charges that may be imposed or levied on Lessee or Provider by any federal, state, county and local governmental agency, including, but not limited to, possessory interest tax, business or occupation tax (assessed on Lessee), commercial, deaf, district, excise, high cost fund, lease, lifeline assistance, low income, occupational, privilege, Public Utility Commission, sales, telecommunications relay service, telephone assistance, universal service funding, use, utility user, value-added, 911, or other similar taxes, fees and surcharges as is or may be levied against Provider and passed through to its customers.

### **4.2 Obligation to Pay Taxes.**

Lessee shall be obligated to pay any and all Taxes assessed, levied, or imposed, for which it is not exempt, in connection with this Agreement, the City Fiber, and/or Lessee's use of the City Fiber. Notwithstanding the foregoing, Lessee is not responsible for the payment of any type of tax levied on Provider based upon Provider's net profit, net income or payroll.

### **4.3 Agreement to Cooperate.**

Lessee and Provider agree to make commercially reasonable efforts to cooperate with each other and coordinate their mutual efforts concerning audits, or other such inquiries, filings, reports, etc., as may relate solely to the provision or use of purchases, activities or transactions arising from or under this Agreement, which may be required or initiated from or by Lessee, Provider or any duly authorized governmental authority relating to Taxes.

## **SECTION 5. REQUIRED RIGHTS.**

Provider represents and warrants that it and/or any of its California Public Utilities Commission ("**CPUC**") regulated operating subsidiaries or affiliates have secured the rights necessary for the installation and maintenance of the Fiber System ("**Required Rights**"). Provider and/or its CPUC regulated operating subsidiaries or affiliates shall maintain the Required Rights and will, at its cost, exercise any renewal right thereunder, and will use its commercially reasonable efforts to acquire extensions, additions or replacements as are necessary to cause the Required Rights to continue through the Term. Notwithstanding the foregoing provisions to the contrary, Lessee shall be solely responsible for obtaining any rights (including but not limited to building access rights, conduit and riser rights) required from building owners and tenants at each of the Demarcs.

## **SECTION 6. MAINTENANCE.**

### **6.1 Maintenance of Structural Aspects.**

Provider shall maintain the structural aspects of City Fiber in good operating condition such that they at all times conform to the Specifications, utilizing sound engineering practices in accordance with the Maintenance and Operations Specifications and Procedures attached hereto as **Exhibit C** and incorporated herein by reference.

### **6.2 Delegation of Maintenance Services.**

Provider may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services for the maintenance of the Fiber System; however, any delegation or subcontracting by Provider shall not operate to relieve Provider of its responsibilities under this Agreement.

### **6.3 Notification of Problems.**

Lessee shall promptly notify Provider of any matters pertaining to any damage or impending damage to or loss of the use of the Fiber System that are known to it and that could reasonably be expected to adversely affect the Fiber System. Provider shall promptly notify Lessee of any matters pertaining to any damage or impending damage to or loss of the Dark Fibers or the Fiber System that are known to it and that could reasonably be expected to adversely affect the City Fiber or Lessee's use thereof.

## **SECTION 7. RELOCATION.**

### **7.1 Relocation of City Fiber.**

If relocation of City Fiber is required by a governmental agency or is determined by Provider to be necessary based on reasonable business needs of Provider, Provider shall have the right to relocate the City Fiber within the Fiber System upon one hundred eighty (180) days prior written notice of any relocation. Lessee will cooperate in good faith with Provider to facilitate such relocation. Provider agrees to use commercially reasonable efforts, in cooperation with Lessee, to minimize or avoid: (i) any interruption to Lessee's enjoyment of the Lease, (ii) any material impact on the route diversity of Lessee's network, or (iii) any material impact on Lessee's ability to carry traffic on the City Fiber with the equipment Lessee was using on the Dark Fibers prior to the relocation. If said relocation, results in the loss of use of the City Fiber for a period of thirty (30) days or more, the Annual Use Fee under the Master Permit will be increased by the amount equal to the loss of use of the City Fiber calculated based on the current rate calculation for the value of the City's use of the City Fiber. For example, if such a loss occurred in the first year of the Permit, and pertained to 1 mile of fiber for 30 days, the additional amount due for the Annual Use Fee would be \$480.00 (\$40.00 x 12 strands x 1 fiber mile).

## **SECTION 8. WARRANTY.**

8.1 PROVIDER WARRANTS THAT THE CITY FIBER SHALL HAVE BEEN CONSTRUCTED IN ACCORDANCE WITH PREVAILING INDUSTRY STANDARDS AND SHALL BE FREE OF DEFECTS IN MATERIALS AND WORKMANSHIP. PROVIDER WARRANTS THAT DURING THE TERM (I) THE PRODUCTS AND SERVICES PROVIDED HEREUNDER WILL BE AT A PROFESSIONAL LEVEL OF QUALITY CONFORMING TO GENERALLY ACCEPTED INDUSTRY STANDARDS AND IN COMPLIANCE IN ALL MATERIAL RESPECTS WITH ALL APPLICABLE LAWS AND REGULATIONS, AND (II) THE CITY FIBER WILL PERFORM IN ACCORDANCE WITH THE SPECIFICATIONS AS SET FORTH IN **EXHIBIT C** OF THIS LEASE. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, PROVIDER EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY BEYOND THE MANUFACTURERS' WARRANTY AS TO THE FITNESS OF ANY MATERIALS, EQUIPMENT OR ANY OTHER PART OR ALL OF THE CITY FIBER, CONSTRUCTED OR TO BE CONSTRUCTED. THE WARRANTIES AND REMEDIES SET FORTH ABOVE CONSTITUTE THE ONLY WARRANTIES AND REMEDIES WITH RESPECT TO THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

## **SECTION 9. INDEMNIFICATION.**

**Intentionally Deleted.**

## **SECTION 10. LIMITATION OF LIABILITY.**

10.1. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST REVENUES, LOST SAVINGS, OR HARM TO EITHER PARTY'S BUSINESS OR EITHER PARTY'S CUSTOMERS IN CONNECTION WITH THE USE OF THE CITY FIBER OR THIS AGREEMENT. THE PARTIES HEREBY RELEASE EACH OTHER FROM ANY SUCH CLAIM.

10.2. Limitation of Damages. Notwithstanding any other provision of this Agreement to the contrary, and in addition to the limitations set forth above, the Parties agrees that in the event of any claim or cause of action by either Party against the other arising out of or connected with this Agreement, the maximum amount of either Party's liability or loss to the other Party, regardless of the amount of loss they may have suffered, shall be \$75,000.

## **SECTION 11. INSURANCE.**

Provider shall obtain and maintain the following insurance: (a) statutory Workers' Compensation sufficient to comply fully with requirements and coverage specified by the Laws of

each jurisdiction in which the services will be provided, and employers liability in the amount of at least \$500,000 covering injuries to anyone hired by such Party; (b) commercial general liability insurance on a per occurrence basis to include coverage for broad form property damage, bodily injury, personal injury, blanket contractual liability, products/completed operations in the amount of at least \$1,000,000 bodily injury and property damage combined single limit per occurrence; (c) automotive liability of \$1,000,000 combined single limit per accident; and (d) umbrella liability of \$2,000,000 per occurrence. Lessee represents and warrants that it is self-insured in the foregoing amounts. Within five (5) business days after the Effective Date, and thereafter, no less than thirty (30) days prior to the expiration or termination of such policies of insurance, Provider shall provide to Lessee certificates of insurance evidencing the coverages required hereunder. The policies required by (b) and (d) preceding shall be endorsed to include Lessee, its elected officials, officers, employees, representatives, and agents as an additional insured as their interests may appear. If a Provider's insurance coverage hereunder is terminated or lapses, then Provider shall provide the Lessee with written notice of such occurrence within fifteen (15) days thereof.

## **SECTION 12. DEFAULT AND TERMINATION.**

### **12.1 Notice of Breach.**

In the event either party fails to perform the obligations set forth in this Agreement, the non-defaulting party must provide written notice of such default including reasonable detail of the default, and thirty (30) days to cure the default.

### **12.2 Remedies Available Upon Default.**

Upon the failure of the defaulting party to cure any default in accordance with Section 12.1 or in the event the Master Permit is revoked and/or terminated by either party in accordance with Section 30 of the Master Permit, the non-defaulting party, with respect to this Agreement, may do any or all of the following:

A. Terminate this Agreement immediately upon written notice of its desire to terminate:

B. Perform or cause to be performed such unfulfilled obligations of the defaulting party. The defaulting party shall reimburse the non-defaulting party of the reasonable cost thereof, plus interest at the rate of ten percent (10%) per annum, within thirty days after delivery to the defaulting party of written receipts reflecting the costs and evidencing the fulfillment of such obligations; and/or

C. Pursue any legal remedies it may have under this Agreement, as well as applicable law or principles of equity, subject to the limitations set forth in this Agreement.

### **12.3 Obligations Required Upon Termination.**

The termination or expiration of this Agreement for any reason shall be without prejudice to the rights and obligations of the parties hereto accruing up to and including the date of such termination or expiration.

#### **12.4 Obligation to Remove Equipment Upon Termination.**

Upon termination, Lessee will promptly disconnect and remove the Lessee equipment connecting to all Lateral Cables and abandon the fibers contained therein. The Provider agrees to disconnect the abandoned Lateral Cables from the Wilcon Fiber System and pull the abandoned cable clear of the Lessee's handholes within thirty (30) days.

#### **12.5 Survival of Terms.**

Notwithstanding the provisions of this Section, the expiration or termination of this Agreement shall not affect the rights or obligations of either party hereto pursuant to the Sections of this Agreement entitled Indemnification, Limitation of Liability, Insurance and Taxes with respect to matters or claims arising or accruing prior to expiration or termination hereof, or pursuant to any other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement.

### **SECTION 13. DISPUTE RESOLUTION.**

Except as otherwise specifically provided in or permitted by this Agreement, all disputes, differences of opinion or controversies arising in connection with this Agreement shall first be resolved through good faith negotiation to arrive at an agreeable resolution. If, after negotiating in good faith for a period of sixty (60) calendar days, or any agreed further period, the parties are unable to resolve the dispute, then the parties may seek resolution by exercising any rights or remedies available to either party at law or in equity.

### **SECTION 14. GOVERNING LAWS.**

Any action related to this Agreement will be governed the laws of the State of California.

### **SECTION 15. RELATIONSHIP OF THE PARTIES.**

The relationship between the parties shall not be that of partners, agents or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to federal income tax purposes. In performing any of their obligations hereunder, the parties shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

### **SECTION 16. NOTICES.**

Any notice hereunder shall be in writing and shall be delivered by personal service or by United States certified or registered mail, with postage prepaid, or by overnight courier addressed as follows:  
To Provider:

WILCON  
624 South Grand Avenue, Suite 2500  
Los Angeles, CA 90017  
Attention: Senior Vice President, Network Operations

With a copy to:

WILCON  
624 South Grand Avenue, Suite 2500  
Los Angeles, CA 90017  
Attention: General Counsel

To Lessee:

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

With a copy to:

City of San Diego  
Department of Information Technology  
Attn: Wireless Technology Division  
1220 Caminito Centro  
San Diego, CA 92102

Either party, by similar written notice, may change the address to which notices shall be sent.

#### **SECTION 17.      /      WAIVER.**

No failure, forbearance, neglect, or delay by either party in regard to enforcing this Agreement or exercising any rights contained in this Agreement shall affect or limit such party's right to strictly enforce same, and shall not constitute or be implied as a waiver of any right to enforce same in the future.

#### **SECTION 18.      ASSIGNMENT.**

Neither Party shall assign this Agreement by operation of law or otherwise, without the prior written consent of the other party. Any attempt to do so without other Party's consent shall be null and void, and any assignee shall acquire no right or interest by reason of such attempted assignment.

## **SECTION 19. FORCE MAJEURE.**

In no event shall a Party have any claim or right against the other Party for any failure of performance in accordance with the Agreement due to causes beyond its reasonable control ("**Force Majeure Event**"), including, without limitation, an Act of God, fire, flood or other natural catastrophe, laws, orders, rules, regulations, directions or actions of governmental authorities, national emergency, riot, act of terrorism or war, acts or omissions of other carriers, or labor dispute and any effects there from.

## **SECTION 20. MISCELLANEOUS.**

20.1 The covenants, undertakings, and agreements set forth in this Agreement are solely for the benefit of and enforceable by the parties or their respective successors or permitted assigns.

20.2 Except as otherwise expressly provided, the rights and remedies set forth in this Agreement are in addition to, and cumulative of, all other rights and remedies at law or in equity.

20.3 The headings in this Agreement are strictly for convenience and do not amplify or limit any of the terms, provisions or conditions hereof.

20.4 In the event any term of this Agreement is held invalid, illegal or unenforceable, in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement will be in any way affected.

20.5 This Agreement may be amended only by a written instrument executed by the parties.

20.6 No failure to exercise and no delay in exercising, on the part of either party, any right, power or privilege hereunder will operate as a waiver, except as expressly provided herein.

20.7 This Agreement may be executed in multiple counterparts, all of which taken together constitute one and the same instrument.

## **SECTION 21. DISABLED ACCESS COMPLIANCE**

21.1 Provider shall comply with all accessibility requirements under the Americans with Disabilities Act (ADA) and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Provider shall comply with the most restrictive requirement (i.e. that which provides the most access). Provider also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Agreement by reference. Provider warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City Council's Policy and any applicable access laws and regulations.

## **SECTION 22. DRUG FREE WORKPLACE CERTIFICATION**

22.1 Provider shall comply with the City's Drug-Free Workplace requirements as set forth in Council policy 100-17, which is incorporated into the Agreement by this reference.

## **SECTION 23. NON-DISCRIMINATION REQUIREMENTS**

23.1 Provider shall comply with Lessee's Equal Opportunity Contracting Program (EOCP) Requirements. Provider shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Provider shall provide equal opportunity in all employment practices. Provider shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Provider liable for any discriminatory practice of its subcontractors.

23.2. Provider shall not discriminate on the basis of race, gender, gender identification, gender expression, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Provider shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Provider understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in Agreement termination, debarment or other sanctions. Provider shall ensure that this language is included in contracts between Provider and subcontractors, vendors and suppliers.

23.3 Upon Lessee's request, Provider agrees to provide Lessee, within sixty (60) calendar days, a truthful and complete list of names of all subcontractors, vendors, and suppliers that Provider has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Provider for each subcontract or supply contract. Provider further agrees to fully cooperate in any investigation conducted by Lessee pursuant to Lessee's Nondiscrimination in Contracting Ordinance. Provider understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in Agreement termination, debarment, and other sanctions.

23.4 Unless an exception applies, Provider shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code. Failure to maintain equal benefits is a material breach of this Agreement.

## **SECTION 24. HIRING OF LESSEE EMPLOYEES**

24.1 This Agreement shall be unilaterally and immediately terminated by City if Provider employs an individual who within the past twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on this Agreement.

## **SECTION 21. NO PUBLICITY.**

Neither party shall issue any press releases or announcements, or any marketing, advertising, or other promotional materials, related to this Agreement or referencing or implying the other party or its trade names, trademarks, or service marks without the prior written approval of the other party.

## **SECTION 22. ENTIRE AGREEMENT.**

This Agreement supersedes any and all other agreements and representations respecting the City Fiber, with the exception of the Master Permit, and contains all the terms, conditions and obligations of the parties with respect to this Agreement. This Agreement may only be amended or modified in a writing signed by both parties. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.

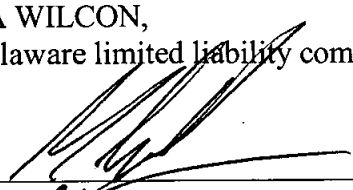
## **SECTION 23. CONFLICTS.**

In the event of any conflict between or among the provisions of this Agreement or the Exhibits to the Agreement, such conflict shall be resolved in the following order of precedence (the first order of precedence under clause (i) being the highest: (i) the Dark Fiber Addendum; (ii) the Agreement; (iii) Exhibits; and (iv) all other exhibits except for the Dark Fiber Addendum.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party has caused this Agreement to be executed on the date set above by its duly authorized representative.

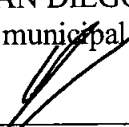
FREEDOM TELECOMMUNICATIONS LLC  
DBA WILCON,  
a Delaware limited liability company

By: 

Name: *Glenn Mueves*

Title: *VP - General Counsel / Secretary*

CITY OF SAN DIEGO,  
a California municipal corporation

By: 

Name:

**Cybele Thompson**

Title:

**Director, Real Estate Assets**

APPROVED AS TO FORM:

Date: 8/18/16

JAN I. GOLDSMITH, City Attorney

By



Melissa Ables

Deputy City Attorney

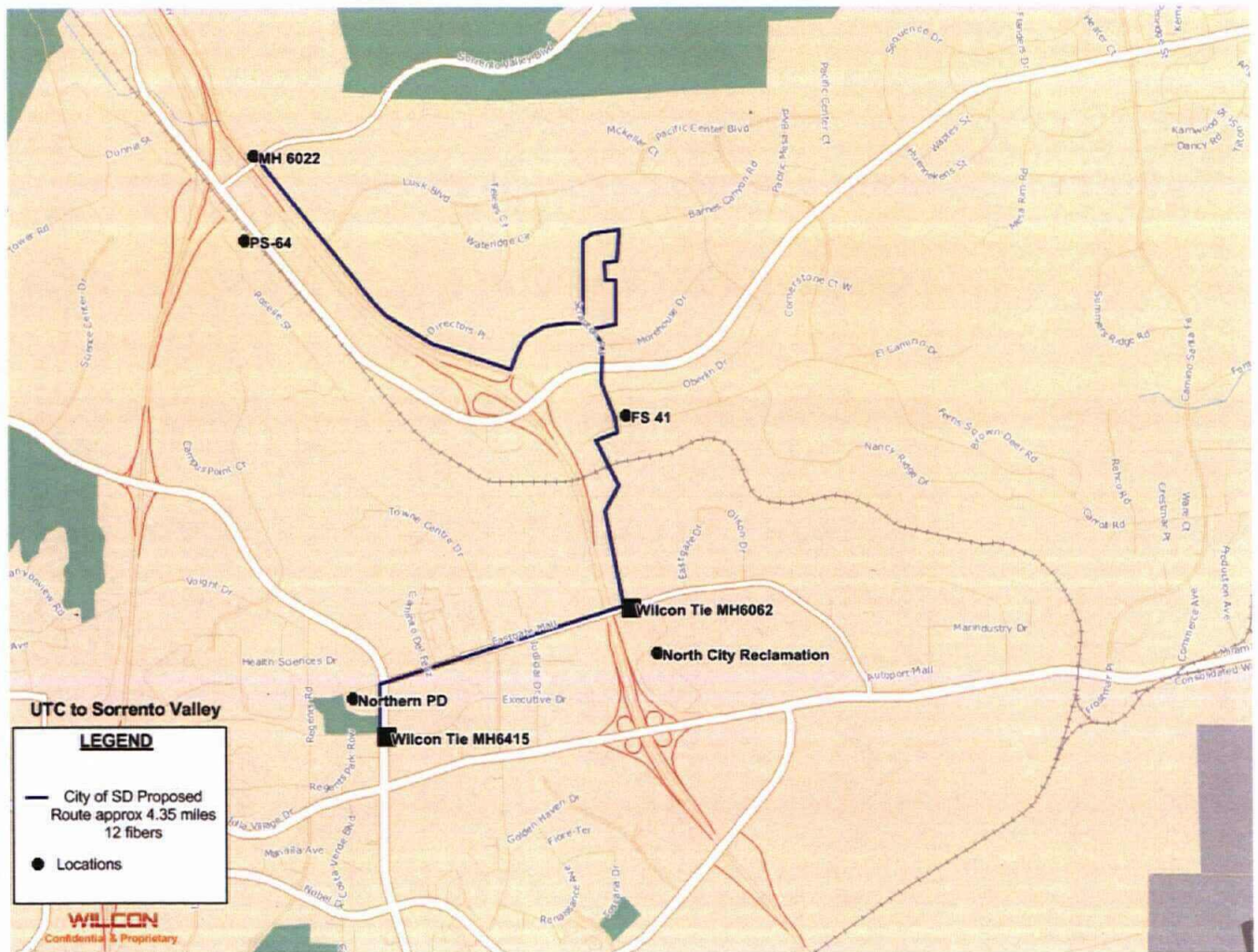
**EXHIBIT A**  
**DARK FIBER ADDENDUM**

| <b>Segment</b>            | <b>Route Miles</b> | <b>Fiber Strands</b> |
|---------------------------|--------------------|----------------------|
| UTC to Sorrento Valley    | 4.35               | 12                   |
| Rancho Bernardo to Reddit | 1.63               | 12                   |
| MOC to Miramar            | 5.40               | 12                   |
| Mid City                  | 0.65               | 12                   |
| Lake Miramar              | 1.17               | 12                   |
| Friars Loop               | 2.16               | 12                   |
| ECDC to CRE to MOC        | 5.31               | 12                   |
| Downtown SD               | 3.57               | 24                   |

## EXHIBIT B

### DARK FIBER ROUTE MAP

#### UTC to Sorrento Valley Route Map and Demarcation Points:



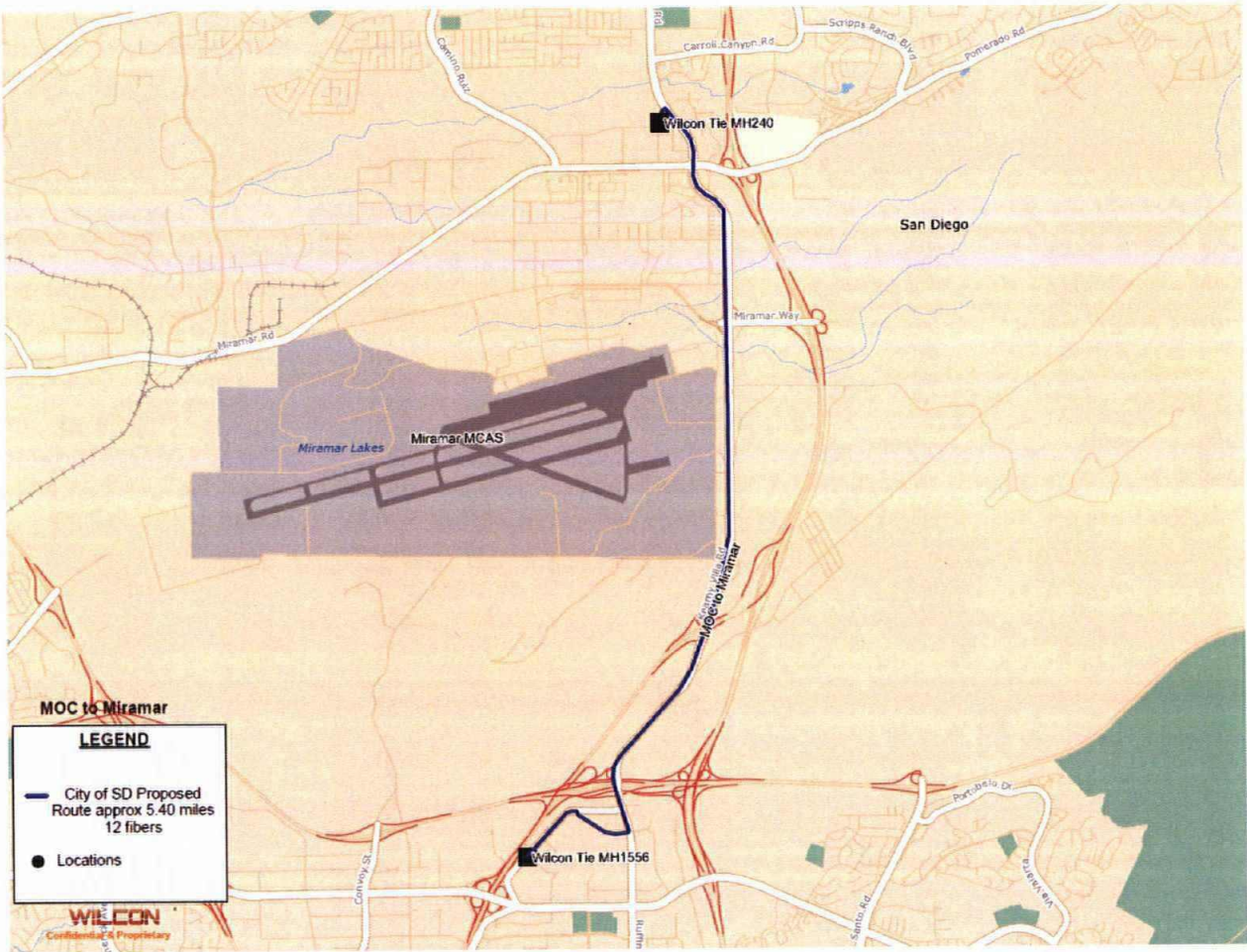
**Rancho B to San P**

**LEGEND**

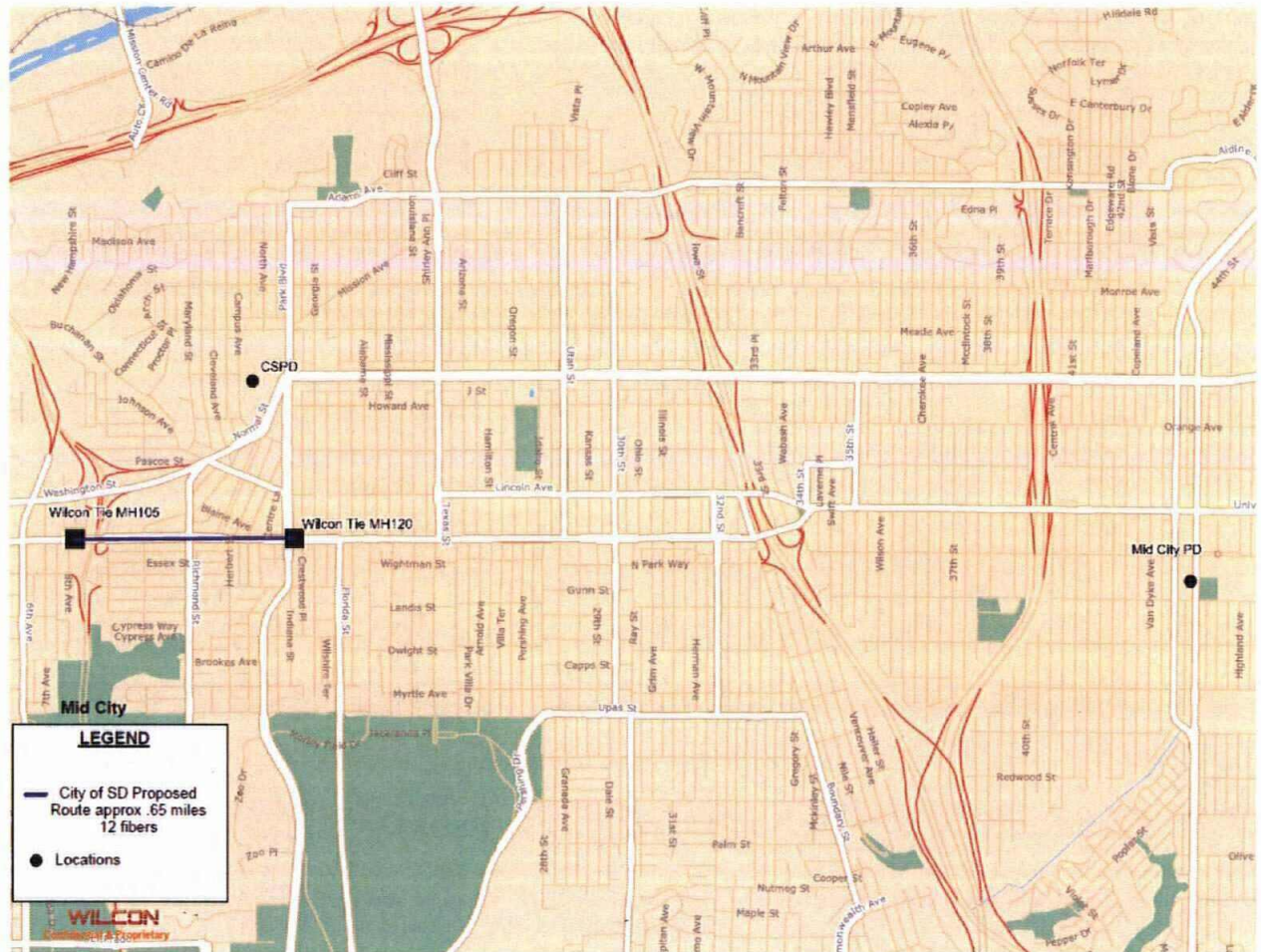
- City of SD Proposed Route approx 1.63 miles 12 fibers
- Locations

**WILCON**  
Confidential & Proprietary

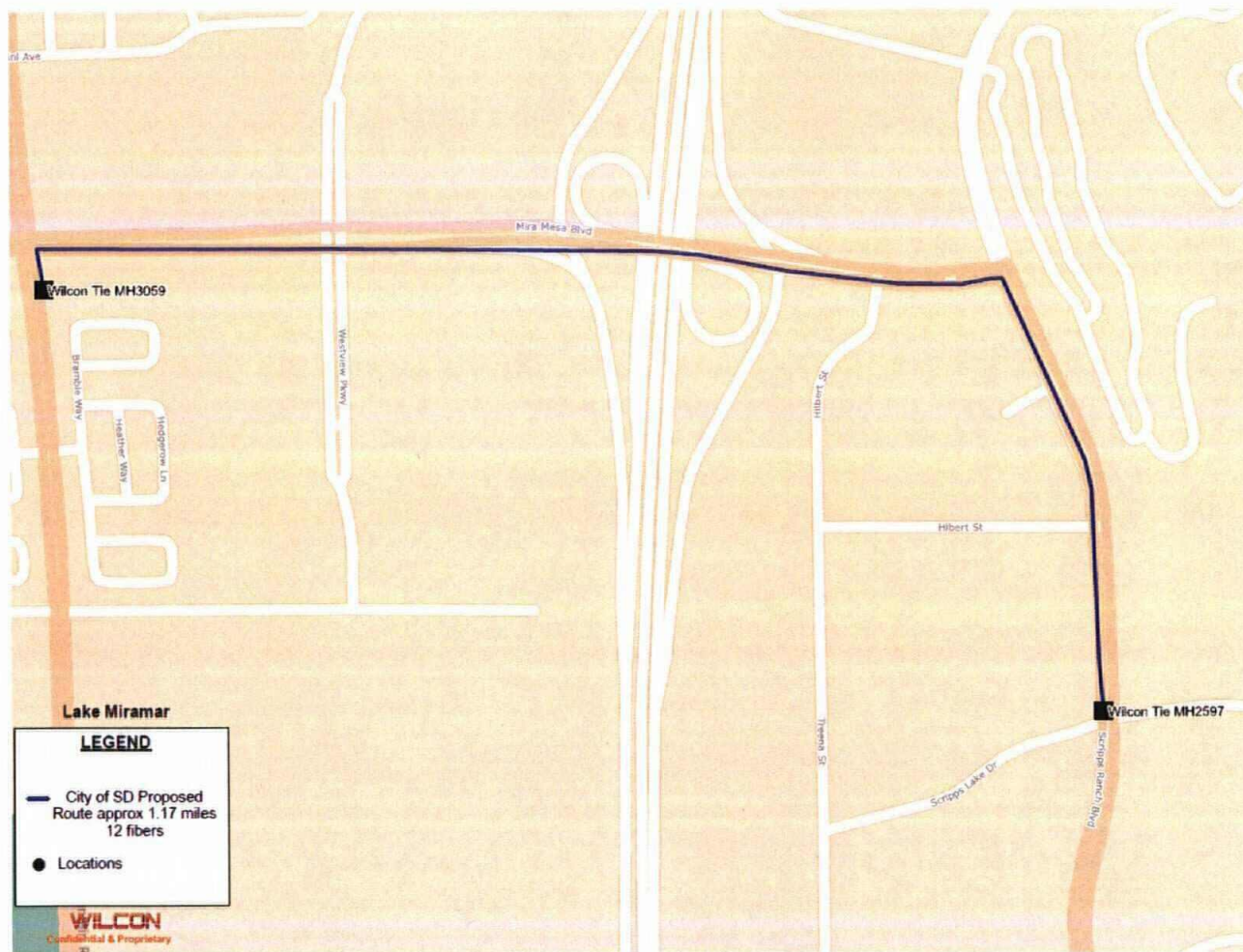
**MOC to Miramar Route Map and Demarcation Points:**



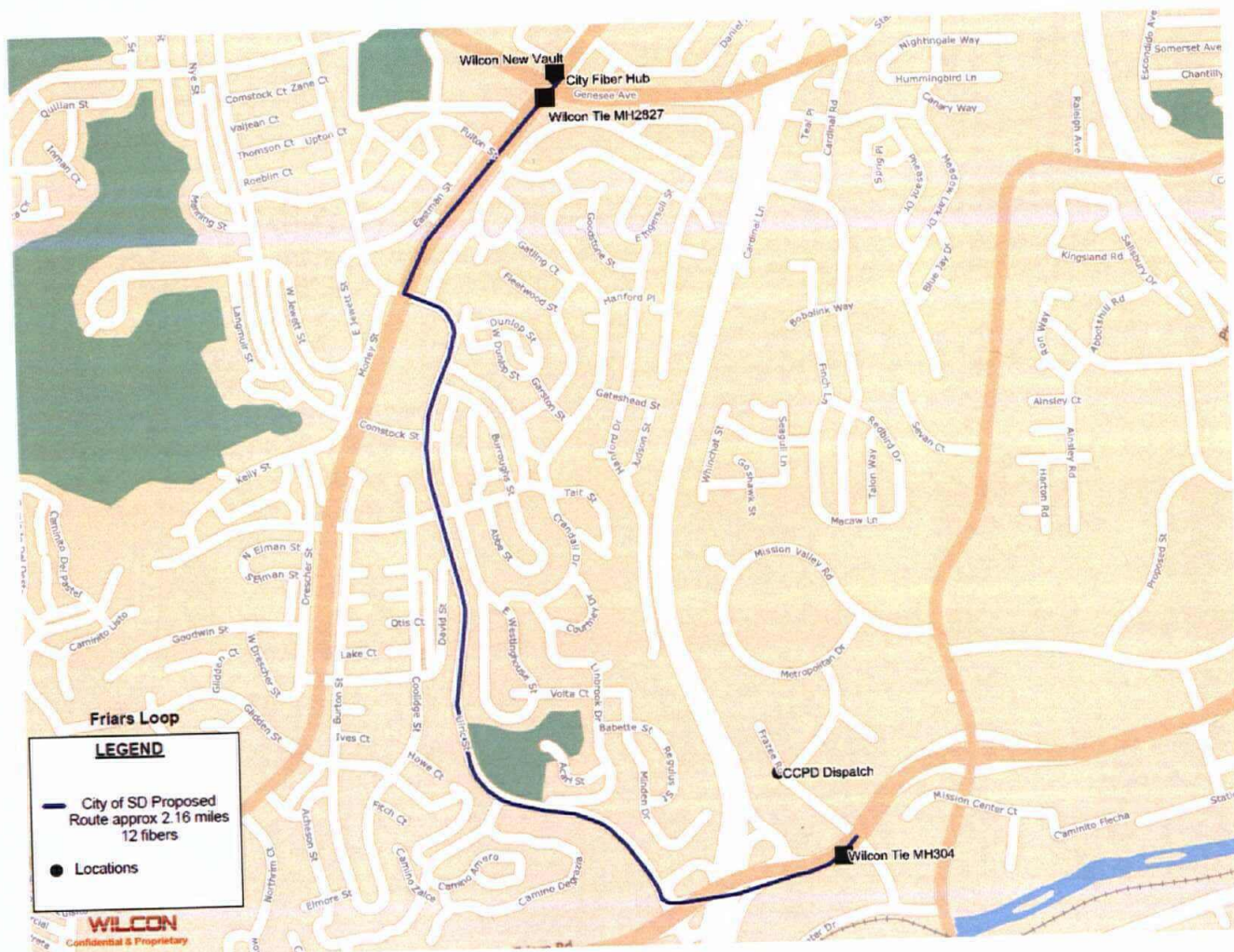
## Mid City Route Map and Demarcation Points:



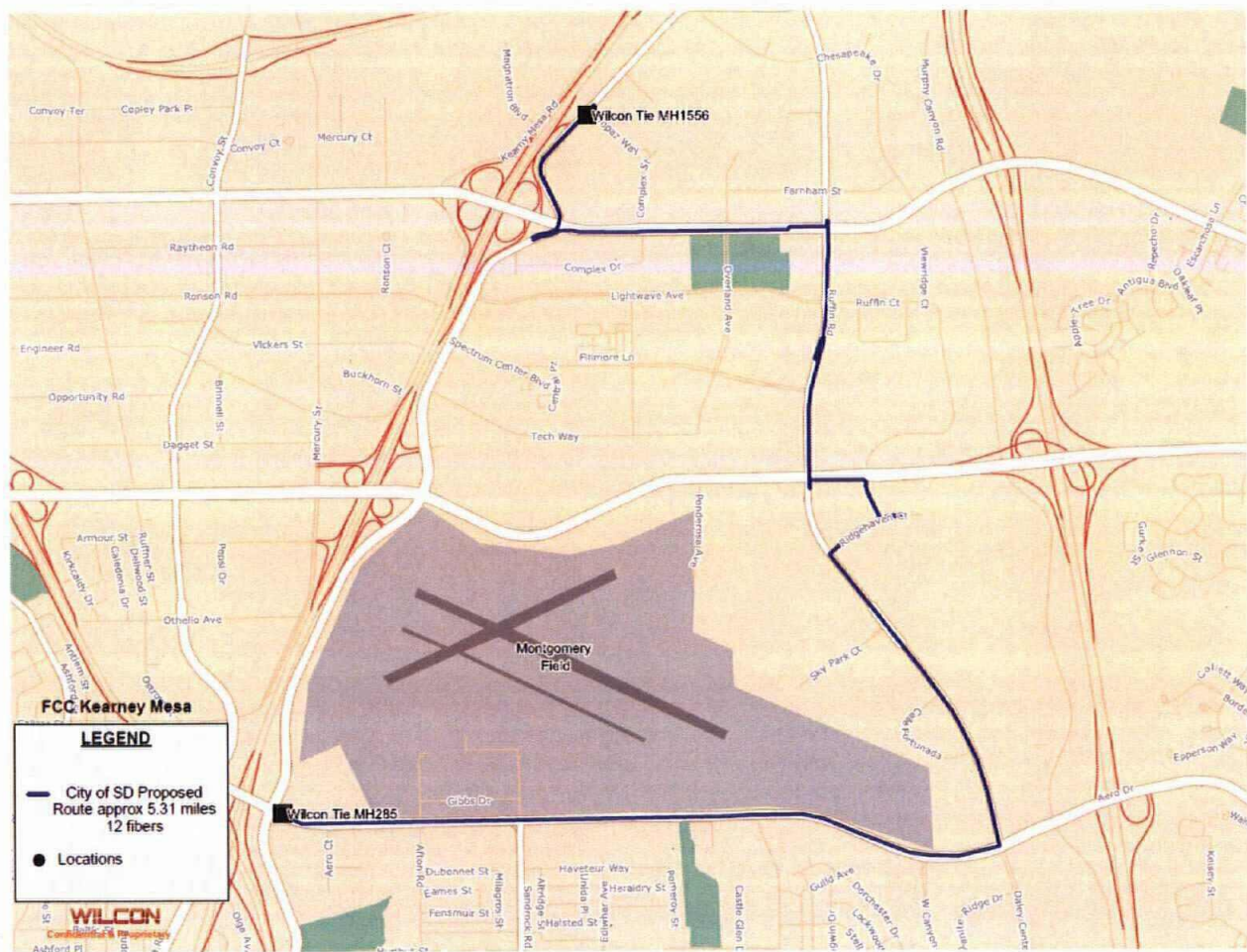
## Lake Miramar Route Map and Demarcation Points:



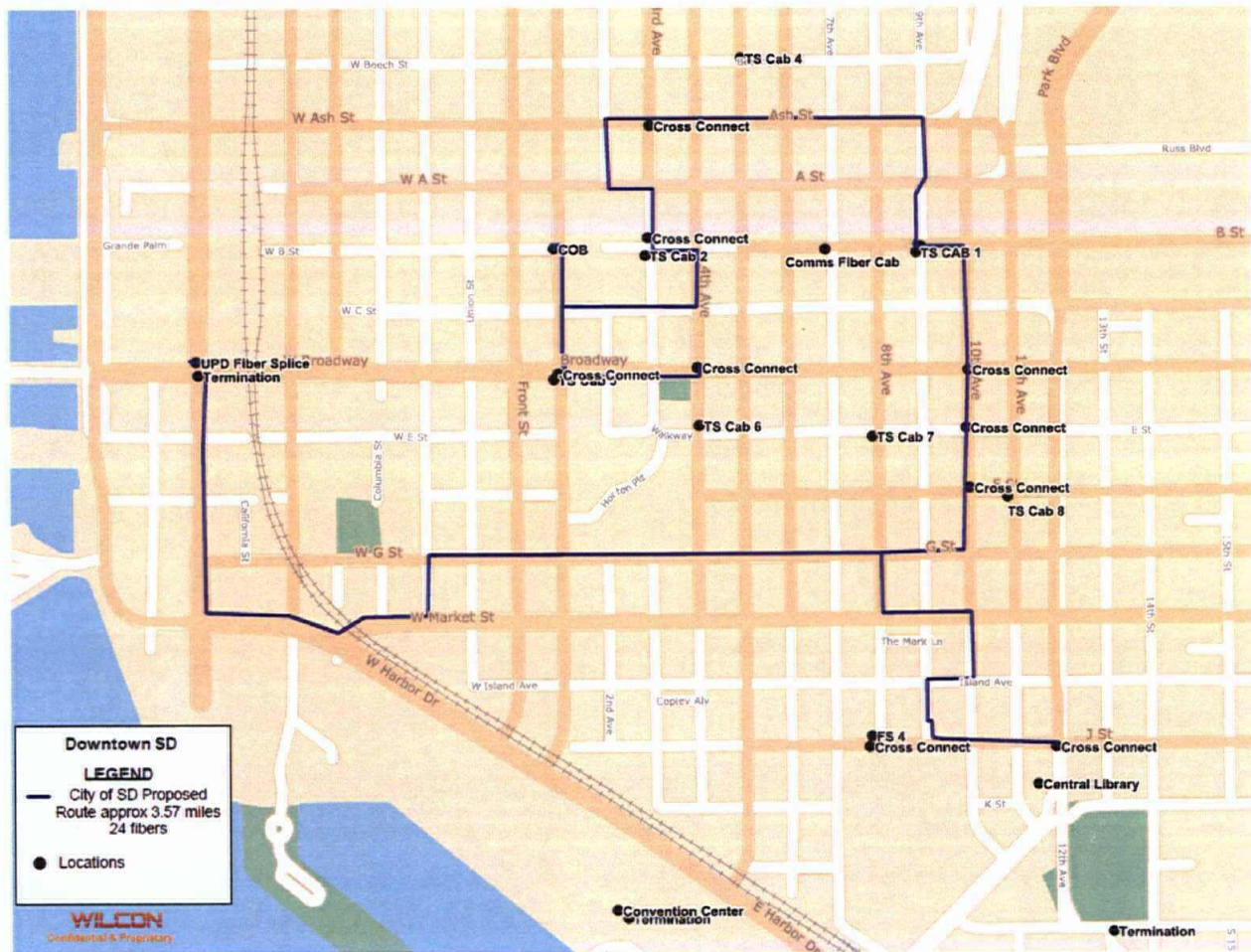
### Friars Loop Route Map and Demarcation Points:



## ECDC to CRE to MOC Route Map and Demarcation Points:



### **Downtown SD Route and Demarcation Points:**



**EXHIBIT C**  
**FIBER SPLICING AND TESTING STANDARDS,**  
**SPECIFICATIONS AND PROCEDURES**

**1. Fiber and Connector Standards**

**1.1 Connector Standards**

Provider shall use connectors with a UPC polish. The loss value of any pigtail connector and any associated fiber jumper or pigtail with matching mode field diameters will not exceed 0.5dB at 1550 nm. The loss value of a connector and its associated jumper with mismatched mode field diameters should not exceed 0.8 dB.

**1.2 Field Splice Standards**

All splices shall be fusion splices. The objective for each splice is an averaged loss value of 0.1 dB or less when measured bi-directionally with an OTDR at 1550 nm. In the event of damage and subsequent restoration of the Fibers, commercially reasonable efforts will be made to restore the Fibers to this standard. If after 3 restoration splicing attempts, Provider is not able to produce a loss value of 0.1 dB or less bi-directionally at 1550 nm, then 0.5 dB or less bi-directionally at 1550 nm will be acceptable. Fibers not meeting the 0.1 dB or less specification will be identified as Out Of Specification (OOS). Documentation of the three attempts (reburns) to bring the OOS fiber within specification will be provided.

**1.3 Span Loss**

It is Provider's responsibility to insure proper continuity of all fibers at the fiber level, not just the pigtail level. Any "frogs" or fibers that cross in the route will be remedied by Provider. The attenuation as measured by a light source and power meter shall not exceed the following:

Maximum Allowable Attenuation per Fiber Span =  $(A * L) + (0.1 * N) + (0.5 * C)$

A = 0.3 dB per kilometer (at 1550 nm)

L = Optical length of cable measured in kilometers (from OTDR trace)

N = Number of splices in the span

C = Number of mated connector pairs in the span. The connector loss will not exceed 0.5dB per mated pair.

**1.4 Reflectance**

The maximum reflectance per event, as measured by an OTDR, shall not exceed -40dB.

## 2. Naming of Traces

OTDR traces taken for bi-directional testing, and the OTDR traces of the pigtail splice must be recorded on floppy diskette and provided to Lessee. To name the traces, each party will provide alpha abbreviations for the sites. The 8-character file name plus 3-character file extension name should follow this example:

First four letters = source point  
Letters 5, 6, 7 = Destination point  
8<sup>th</sup> letter = wavelength  
Extension = fiber number

Examples:

Springfield to Lebanon at 1550 nm, fiber 96 = sgfdlbn5.096

Springfield to Monett pigtail trace on fiber 1 = sgfdmntp.001

►**NOTE:**     **ALL HEADER INFORMATION ON OTDR  
TRACE MUST BE COMPLETED.**

## 3. Test Packages

Provider shall provide a package containing the following test data for each fiber. All data provided should be provided to Lessee in digital format.

- A.     Bi-directional OTDR span traces taken at 1550 nm.
- B.     An Excel spreadsheet containing the power meter and light source data for both directions at 1550 nm. Should also include the average for each fiber.
- C.     A document identifying splice points with OOS test results. Should also include documentation supporting the three reburn attempts.
- D.     The test data shall not include any test of third party connections or any other connections than the City Fiber identified in the Dark Fiber Addendum.

## **EXHIBIT D**

### **MAINTENANCE AND OPERATIONS SPECIFICATIONS AND PROCEDURES**

#### **1. Defined Terms**

- a. **“Routine Maintenance”** is all preventive maintenance activities, upgrades and repairs, including but not limited to those activities outlined in this Exhibit.
- b. **“Non-Routine Maintenance”** is all efforts and activities in response to an emergency circumstance which requires restoration.

#### **2. General**

- a. Provider shall provide a means for Lessee to report trouble with the City Fiber to trained and qualified personnel on a twenty-four (24) hours a day, (7) seven days a week basis, which may include a Provider contractor or consultant (**“Technician”**). Lessee shall report trouble to Provider at Information Systems Helpdesk during normal business hours as defined herein and outside normal business hours in accordance with the escalation list “Operations Escalation List” to be provided. The normal business hours shall mean and refer to the hours between 8:00 a.m. to 5:00 p.m. Pacific Standard Time, Mondays through Fridays, except for Provider observed holidays and those closed Fridays. Provider shall dispatch a Technician along the Fiber System to handle and repair problems reported by Lessee or otherwise discovered by Provider.
- b. The Technician shall be available for dispatch twenty-four (24) hours a day, seven (7) days a week. Provider shall use best efforts to have its Technician at the site requiring an emergency maintenance activity within four (4) hours from notification by Lessee or other discovery by Provider, whichever occurs first. In the event that the City Fiber is spliced to a third party’s fibers, Lessee shall dispatch the third party’s maintenance personnel to determine if the problem is on Provider’s Fiber System or the third party’s fiber network before Provider dispatches a Technician to restore the City Fiber; however, Provider’s four (4) hour response interval described in this Section shall not be deferred or extended due to the time taken by the third party to determine the location of the problem.
- c. Lessee shall utilize the Operations Escalation List provided by Provider, to report and seek immediate initial redress of exceptions noted in the performance of Provider in meeting maintenance service objectives. Provider may update the Operations Escalation List from time to time.
- d. Provider shall take workmanlike care to prevent impairment to the signal continuity and performance of the City Fiber. The precautions to be taken by Provider shall include notification to Lessee. In addition, Provider shall reasonably cooperate with Lessee in sharing information and analyzing the disturbances regarding the City Fiber and/or Fiber System.
- e. Provider shall notify Lessee at least seven (7) days prior to the date of any planned non-emergency maintenance activity. In the event that a Provider-planned activity is canceled or delayed for any reason as previously notified, Provider shall notify Lessee at Provider’s earliest

opportunity and will comply with the provisions of the previous sentence to reschedule any delayed activity.

f. Non-emergency work that is reasonably expected to produce any signal discontinuity must be coordinated between the parties, and performed in accordance with Scheduled Maintenance Procedures. "**Scheduled Maintenance Procedures**" or "**SMP**" means a pre-arranged period of time reserved for performing certain work on Provider's Fiber System that may impact communication services. Unless otherwise agreed by Lessee, SMP will be completed after 10:00 p.m. and before 6:00 a.m., local time. Major Fiber System work such as fiber rolls and hot cuts will also be scheduled utilizing SMP.

g. Provider shall maintain the City Fiber in a manner that permits normal operation of the equipment associated with the City Fiber. Such maintenance includes, but is not limited to, landscaping, weed control, fence repair, smoke detectors, air conditioning, power, and trash removal.

h. Lessee shall provide and maintain names and telephone numbers of primary and secondary contact personnel who are trained in trouble-shooting network problems. These personnel will diagnose potential problems with Lessee's equipment and determine there are no problems with such equipment prior to making a Non-Routine Maintenance request to Provider.

### **3. Facilities**

a. Provider shall maintain the City Fiber in conformance with the Specifications in a manner that permits normal operation of the City Fiber.

b. Provider shall perform appropriate Routine Maintenance on the Fiber System in accordance with Provider's then current preventive maintenance procedures that shall not substantially deviate from industry practice and shall be responsible for correcting dysfunction.

### **4. Fiber System.**

a. Provider shall maintain the Fiber System in good and operable condition and shall repair the fiber in workmanlike manner.

b. Provider shall perform appropriate routine maintenance on the Fiber System in accordance with Provider's then current preventative maintenance procedures. Provider's maintenance procedures shall not substantially deviate from industry practice.

c. Provider responsibility ends at demarcation point. Testing would take place from demarcation point A to demarcation location Z.

### **5. Restoration**

a. When restoring a cut fiber, the parties agree to work together to restore all traffic as quickly as possible. Provider, immediately upon arriving on the site of the cut, shall determine the best course of action to be taken to restore the fiber and shall begin restoration efforts.

b. It will be the responsibility of Provider and Lessee to report to one another respectively of any known environmental hazards that would restrict or jeopardize any maintenance work activities in shelters or right of way areas of operations.

c. Upon notification of interruption of fiber service, disrepair, impairment or other need for repair or restoration of the City Fiber and the location of the damaged City Fiber, Provider shall pursue commercially reasonable efforts to mobilize technicians to achieve necessary repair or restoration, including, but without limitation, to have maintenance personnel at the affected site within four (4) hours after receipt of such notice with the required restoration material and equipment. If Lessee's use of the City Fiber is interrupted due to the occurrence of a Force Majeure event, the non-performing party will contact the other party and repairs and restoration will be made as expeditiously as possible.

d. The requirement for detection of the fault location is "as exact as possible" utilizing test records, fiber documentation, GPS coordinates and OTDR test results of the affected City Fiber. Subject to the priorities described above, if Lessee's use of the City Fiber is interrupted due to an occurrence of a Force Majeure event, repairs and restoration shall be made as expeditiously as possible.

e. For purposes of this section, "commercially reasonable efforts" means activities and performances consistent with prudent utility practice, existing contract provisions for Provider hourly employees, preserving Fiber System integrity, and response times that do not jeopardize the health and safety of the employees and agents of Provider and Lessee.

f. Provider maintenance employees or contractors shall be responsible for correcting or repairing fiber discontinuity or damage, including, but not limited to, the emergency repair of the City Fiber. Provider shall use commercially reasonable efforts to repair the City Fiber's traffic-affecting discontinuity as soon as possible after learning of the discontinuity or the service affecting situation.

g. Provider shall maintain sufficient capability to teleconference with Lessee during an emergency repair in order to provide continuous communication. Restoration of open fibers on fiber strands not immediately required for service, the repair shall be scheduled for the next available SMP.



THE CITY OF SAN DIEGO

DATE OF NOTICE: July 25, 2016

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 21000022

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|                             |                                                                                    |
|-----------------------------|------------------------------------------------------------------------------------|
| <b>PROJECT NO:</b>          | N/A                                                                                |
| <b>PROJECT NAME:</b>        | Master Use and Occupancy Permit for Distributed Antenna System (DAS) Installations |
| <b>COMMUNITY PLAN AREA:</b> | Downtown and Uptown                                                                |
| <b>COUNCIL DISTRICT:</b>    | 3                                                                                  |
| <b>LOCATION:</b>            | See Attachment                                                                     |

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**PROJECT DESCRIPTION:** The project includes a Master Use and Occupancy Permit to allow for the installation of a Small Cell Network to be located at various locations in the Downtown and Uptown Community Plan areas. The network would consist of a fiber transport network and up to 100 small cell sites. The sites would be installed on City of San Diego owned street lights and/or traffic signals where permitted. The fiber network would be built within the public right of way. The project would incorporate both existing fiber network that is currently in conduit that sits within the public right of way and new fiber network. The new fiber network would also be placed within existing conduit that sits within the public right of way. Each of the small cell sites would consist of a vault, located on the sidewalk, next to the existing street light and/or traffic signal, and an antenna with associated radio and equipment within a cabinet that would be placed on the existing streetlight/ traffic signal at each site.

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**ENTITY CONSIDERING PROJECT APPROVAL:** City of San Diego Staff

**ENVIRONMENTAL DETERMINATION:** CEQA Exemption 15301 (Existing Facilities)

**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego

**STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:** The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project, as described in the Project Description section of this notice, meets the criteria set forth in CEQA Section 15301 which allows for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing facilities (public or private), involving negligible or no expansion of use beyond that existing at the time of the determination. The project, as detailed in the Project Description section of this notice, would result in a negligible expansion of use. Additionally, none of the exceptions described in CEQA Guidelines Section 15300.2 apply.

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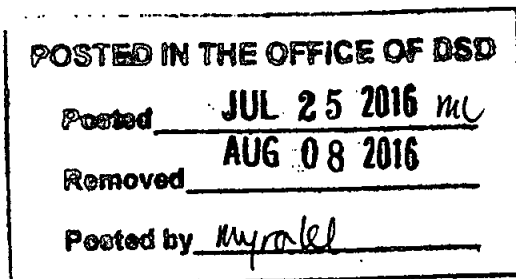
**CITY PROJECT MANAGER:** Enza Charles  
**MAILING ADDRESS:** 1200 Third Avenue, Suite 1700, MS 51A  
San Diego, CA 92101  
**PHONE NUMBER/E-MAIL:** (619) 236-6052/ECharles@sandiego.gov

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On July 25, 2016 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (August 8, 2016). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.



**Attachment – MUOP Small Cell Site Installation Locations**

|    | <b>NODE<br/>ID</b> | <b>STRUCTURE<br/>TYPE</b>              | <b>Street Address</b>                                                                             |
|----|--------------------|----------------------------------------|---------------------------------------------------------------------------------------------------|
| 1  | DSD101             | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 104 Broadway Northeast Corner Broadway & 1 <sup>st</sup> Ave, San Diego, Ca 92101                 |
| 2  | DSD102             | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1018 Eighth Avenue, Northeast Corner, San Diego, Ca 92101                                         |
| 3  | DSD103             | STREET<br>LIGHT                        | 109 F Street, Northwest Corner First Avenue And F Street, San Diego, Ca 92101                     |
| 4  | DSD104             | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 903 Fifth Avenue, Eastside, San Diego, Ca 92101                                                   |
| 5  | DSD106             | STREET<br>LIGHT                        | 105 14 <sup>th</sup> Street Northeast Corner 14 <sup>th</sup> & Imperial Ave, San Diego, Ca 92101 |
| 6  | DSD107             | STREET<br>LIGHT                        | 625 Broadway E Parking Structure Entrance Northside, San Diego, Ca 92101                          |
| 7  | DSD108             | STREET<br>LIGHT                        | 803 F Street Northeast Corner, San Diego, Ca 92101                                                |
| 8  | DSD109             | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 721 Ninth Avenue, Northeast Corner G Street, San Diego, Ca 92101                                  |
| 9  | DSD110             | STREET<br>LIGHT                        | 1055" G Street, Southwest Corner Of G And Eleventh Avenue, San Diego, Ca 92101                    |
| 10 | DSD111             | STREET<br>LIGHT                        | 1090 Island Avenue, Northwest Corner Island Avenue And Eleventh, San Diego, Ca 92101              |
| 11 | DSD112             | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1002 Market, Northeast Corner Tenth And Market, San Diego, Ca 92101                               |
| 12 | DSD113             | STREET<br>LIGHT                        | 712 Cedar Street, San Diego, Ca 92101                                                             |
| 13 | DSD114             | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 620 Market Street, Northeast Corner Seventh Avenue And Market Street, San Diego, Ca 92101         |
| 14 | DSD116             | STREET<br>LIGHT                        | 222 Island Avenue, Northwest Corner Island Avenue And Second Avenue, San Diego, Ca 92101          |

|    |        |                               |                                                                                           |
|----|--------|-------------------------------|-------------------------------------------------------------------------------------------|
| 15 | DSD117 | STREET LIGHT                  | 505 Sixth Avenue, Northeast Corner of Island Avenue And Sixth Street, San Diego, Ca 92101 |
| 16 | DSD118 | TRAFFIC LIGHT W/ STREET LIGHT | 310 Market Street, Northwest Corner Market Street And Fourth, San Diego, Ca 92101         |
| 17 | DSD119 | STREET LIGHT                  | 1255 Imperial Ave Southeast Corner Imperial & 11 <sup>th</sup> , San Diego, Ca 92101      |
| 18 | DSD120 | TRAFFIC LIGHT W/ STREET LIGHT | 811 Tenth Ave, San Diego, Ca 92101                                                        |
| 19 | DSD121 | TRAFFIC LIGHT W/ STREET LIGHT | 435 Sixth Avenue, Northeast Corner J Street And Sixth Avenue, San Diego, Ca 92101         |
| 20 | DSD124 | STREET LIGHT W/ CROSS WALK    | 100 Park Boulevard, Tony Gwynn Way & Park Blvd, San Diego, Ca 92101                       |
| 21 | DSD125 | TRAFFIC LIGHT W/ STREET LIGHT | 928 West Broadway, San Diego, Ca 92101                                                    |
| 22 | DSD201 | TRAFFIC LIGHT W/ STREET LIGHT | 1158 West Broadway, San Diego, CA 92101                                                   |
| 23 | DSD202 | STREET LIGHT                  | 899 Kettner Blvd, Northeast Corner Kettner Blvd And "E" Street, San Diego, Ca 92101       |
| 24 | DSD203 | STREET LIGHT                  | 620 State Street, Northwest Corner State Street And Market Street, San Diego, Ca 92101    |
| 25 | DSD204 | STREET LIGHT                  | 850 State Street, State Street & E Street, San Diego, Ca 92101                            |
| 26 | DSD206 | STREET LIGHT                  | 655 G Street, North side G Street At India Street, San Diego, Ca 92101                    |
| 27 | DSD207 | TRAFFIC LIGHT W/ STREET LIGHT | 750 State Street, Northwest Corner G Street And State Street, San Diego, Ca 92101         |
| 28 | DSD208 | STREET LIGHT                  | 757 Union Street, Southeast Corner F Street And Union Street, San Diego, Ca 92101         |
| 29 | DSD209 | STREET LIGHT                  | 200 Island Ave Northeast Corner Island & Union Street, San Diego, Ca 92101                |

|    |        |                                        |                                                                                                                           |
|----|--------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| 30 | DSD210 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 333 Harbor Drive, San Diego, Ca 92101                                                                                     |
| 31 | DSD211 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 600 Harbor Drive, Northwest Corner Market Street And Harbor Drive,<br>San Diego, Ca 92101                                 |
| 32 | DSD301 | STREET<br>LIGHT                        | 1560 Ninth Avenue, Southeast Corner Cedar Street & Ninth Avenue,<br>San Diego, Ca 92101                                   |
| 33 | DSD302 | STREET<br>LIGHT                        | 750 Beech Street, Northeast Corner Beech Street & Eighth Avenue,<br>San Diego, Ca 92101                                   |
| 34 | DSD303 | STREET<br>LIGHT                        | 942 Beech Street, Southeast Corner Beech Street & Tenth Avenue,<br>San Diego, Ca 92101                                    |
| 35 | DSD304 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1567 Fifth Avenue, Southeast Corner Cedar Street & Fifth Avenue,<br>San Diego, Ca 92101                                   |
| 36 | DSD305 | STREET<br>LIGHT                        | 712 Cedar Street, Northeast Corner Cedar Street & Seventh Avenue,<br>San Diego, Ca 92101                                  |
| 37 | DSD306 | STREET<br>LIGHT                        | 1409 Fourth Avenue, Northwest Corner Ash Street & Fourth Avenue,<br>San Diego, Ca 92101                                   |
| 38 | DSD307 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1455 First Avenue, Northeast Corner Beech Street & First Avenue,<br>San Diego, Ca 92101                                   |
| 39 | DSD308 | STREET<br>LIGHT W/<br>CROSS<br>WALK    | 350 Cedar Street, Northwest Corner Cedar Street & Fourth Avenue,<br>California Western School Of Law, San Diego, Ca 92101 |
| 40 | DSD309 | STREET<br>LIGHT                        | 1450 Second Avenue, Southwest Corner Beech Street & Seventh<br>Avenue, San Diego, Ca 92101                                |
| 41 | DSD310 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 109 West Ash Street, Northwest Corner Ash Street & First Avenue,<br>San Diego, Ca 92101                                   |
| 42 | DSD311 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1313 Second Ave, San Diego, Ca 92101                                                                                      |
| 43 | DSD312 | STREET<br>LIGHT                        | 116 West B St, San Diego, Ca 92101                                                                                        |

|    |        |                                        |                                        |
|----|--------|----------------------------------------|----------------------------------------|
| 44 | DSD313 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 183 C St, San Diego, Ca 92101          |
| 45 | DSD314 | STREET<br>LIGHT W/<br>CROSS<br>WALK    | 793 Ash St, San Diego, Ca 92101        |
| 46 | DSD315 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1013 Fourth Ave, San Diego, Ca 92101   |
| 47 | DSD316 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1109 Fifth Ave, San Diego, Ca 92101    |
| 48 | DSD317 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1109 Seventh Ave, San Diego, Ca 92101  |
| 49 | DSD318 | STREET<br>LIGHT W/<br>CROSS<br>WALK    | 1209 Sixth Ave, San Diego, Ca 92101    |
| 50 | DSD401 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 685 West B St, San Diego, Ca 92101     |
| 51 | DSD402 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1115 India St, San Diego, Ca 92101     |
| 52 | DSD403 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 687 West Broadway, San Diego, Ca 92101 |
| 53 | DSD404 | STREET<br>LIGHT                        | 1127 Columbia St, San Diego, Ca 92101  |
| 54 | DSD405 | STREET<br>LIGHT                        | 1213 State St, San Diego, Ca 92101     |
| 55 | DSD406 | TRAFFIC<br>LIGHT W/<br>STREET<br>LIGHT | 1015 State St, San Diego, Ca 92101     |
| 56 | DSD407 | TRAFFIC<br>LIGHT W/                    | 281 West A St, San Diego, Ca 92101     |

|    |        |                               |                                                                                         |
|----|--------|-------------------------------|-----------------------------------------------------------------------------------------|
|    |        | STREET LIGHT                  |                                                                                         |
| 57 | DSD408 | TRAFFIC LIGHT W/ STREET LIGHT | 180 West Cedar St, San Diego, Ca 92101                                                  |
| 58 | DSD409 | TRAFFIC LIGHT W/ STREET LIGHT | 316 West Ash St, San Diego, Ca 92101                                                    |
| 59 | DSD410 | STREET LIGHT                  | 1756 Columbia St, San Diego, Ca 92101                                                   |
| 60 | DSD411 | STREET LIGHT                  | 1880 State St, San Diego, Ca 92101                                                      |
| 61 | DSD412 | STREET LIGHT                  | 1726 Union St, San Diego, Ca 92101                                                      |
| 62 | DSD413 | STREET LIGHT                  | 787 W Fir St, San Diego, Ca 92101                                                       |
| 63 | DSD415 | STREET LIGHT                  | 387 W Cedar St, San Diego, Ca 92101                                                     |
| 64 | DSD416 | STREET LIGHT                  | 682 W Hawthorn St, San Diego, Ca 92101                                                  |
| 65 | DSD417 | STREET LIGHT                  | 2090 California St, San Diego, Ca 92101                                                 |
| 66 | DSD418 | STREET LIGHT                  | 1882 Columbia St, San Diego, Ca 92101                                                   |
| 67 | DSD419 | STREET LIGHT                  | 1601 Kettner Blvd Northeast Corner Kettner & Cedar St., San Diego, Ca 92101             |
| 68 | DSD420 | STREET LIGHT W/ CROSS WALK    | 514 West A St, San Diego, Ca 92101                                                      |
| 69 | DSD421 | STREET LIGHT                  | 318 West Beech St, San Diego, Ca 92101                                                  |
| 70 | DSD422 | TRAFFIC LIGHT W/ STREET LIGHT | 1243 North Harbor Dr, San Diego, CA 92101                                               |
| 71 | DSD501 | STREET LIGHT                  | 200 West Arbor Dr, San Diego Ca 92101                                                   |
| 72 | DSD502 | TRAFFIC LIGHT W/ STREET LIGHT | 1400 Broadway, Northwest Corner Broadway & 14 <sup>th</sup> Street, San Diego, Ca 92101 |
| 73 | DSD503 | STREET LIGHT                  | 1343 C Street Southwest Corner C Street & 14 <sup>th</sup> Street, San Diego, Ca 92101  |

|    |        |                               |                                                                                                                                  |
|----|--------|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 74 | DSD504 | STREET LIGHT                  | 1401 Broadway, Northeast Corridor, 15 <sup>th</sup> Street & Broadway San Diego Police Headquarters, San Diego, Ca 92101         |
| 75 | DSD505 | TRAFFIC LIGHT W/ STREET LIGHT | 1081 16 <sup>th</sup> Street, Southwest Corner C Street & 16 <sup>th</sup> Street at San Diego City College, San Diego, Ca 92101 |
| 76 | DSD506 | STREET LIGHT                  | 4077 4 <sup>th</sup> Ave, San Diego, Ca 92103                                                                                    |
| 77 | DSD507 | STREET LIGHT                  | 103 Washington St, San Diego, Ca 92103                                                                                           |
| 78 | DSD508 | TRAFFIC LIGHT W/ STREET LIGHT | 841 14 <sup>th</sup> Street, NE Corner 14 <sup>th</sup> Street & F Street, San Diego, Ca 92101                                   |
| 79 | DSD509 | TRAFFIC LIGHT W/ STREET LIGHT | 893 13 <sup>th</sup> St, San Diego, Ca 92101                                                                                     |
| 80 | DSD510 | STREET LIGHT                  | 3509 First Ave, San Diego, Ca 92103                                                                                              |
| 81 | DSD511 | STREET LIGHT                  | 4093 Richmond St, San Diego, Ca 92103                                                                                            |
| 82 | DSD512 | STREET LIGHT                  | 1136 C Street Northwest Corner C Street & Park Blvd, San Diego, Ca 92101                                                         |
| 83 | DSD513 | STREET LIGHT                  | 3909 Richmond St, San Diego, Ca 92103, San Diego, Ca 92101                                                                       |
| 84 | DSD514 | TRAFFIC LIGHT W/ STREET LIGHT | 700 13 <sup>th</sup> , Street Northeast Corner G Street & 13 <sup>th</sup> Street, San Diego, Ca 92101                           |
| 85 | DSD515 | TRAFFIC LIGHT W/ STREET LIGHT | 1330 Market Street, San Diego, Ca 92101                                                                                          |
| 86 | DSD516 | STREET LIGHT                  | 735 15 <sup>th</sup> Street, Northeast Corner 15 <sup>th</sup> St & G Street, San Diego, Ca 92101                                |
| 87 | DSD517 | STREET LIGHT                  | 1606 Market Street, Northeast Corner Market Street & 15 <sup>th</sup> Street, San Diego, Ca 92101                                |
| 88 | DSD518 | STREET LIGHT                  | 3757 Richmond St, San Diego, Ca 92103, San Diego, Ca 92101                                                                       |
| 89 | DSD519 | STREET LIGHT                  | 540 16 <sup>th</sup> Street, Northwest Corner 17 <sup>th</sup> Street & Market Street, San Diego, Ca 92101                       |
| 90 | DSD520 | STREET LIGHT                  | 540 16 <sup>th</sup> Street, Southwest Corner Island Ave & 16 <sup>th</sup> Street, San Diego, Ca 92101                          |

|    |        |                 |                                                                                                            |
|----|--------|-----------------|------------------------------------------------------------------------------------------------------------|
| 91 | DSD521 | STREET<br>LIGHT | 1255 16 <sup>th</sup> Street, Northeast Corner B Street & 16 <sup>th</sup> Street, San Diego,<br>Ca 92101  |
| 92 | DSD522 | STREET<br>LIGHT | 453 13 <sup>th</sup> Street, Southeast Corner Island Ave & 13 <sup>th</sup> Street, San<br>Diego, Ca 92101 |



THE CITY OF SAN DIEGO

DATE OF NOTICE: July 27, 2016  
(Revised Notice)

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 21000022

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|                             |                                                                                    |
|-----------------------------|------------------------------------------------------------------------------------|
| <b>PROJECT NO:</b>          | N/A                                                                                |
| <b>PROJECT NAME:</b>        | Master Use and Occupancy Permit for Distributed Antenna System (DAS) Installations |
| <b>COMMUNITY PLAN AREA:</b> | Downtown and Uptown                                                                |
| <b>COUNCIL DISTRICT:</b>    | 3                                                                                  |
| <b>LOCATION:</b>            | See Attachment                                                                     |

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**PROJECT DESCRIPTION:** The project includes a Master Use and Occupancy Permit to allow for the installation of a Small Cell Network to be located at various locations in the Downtown and Uptown Community Plan areas. The network would consist of a fiber transport network and up to 100 small cell sites. The sites would be installed on City of San Diego owned street lights and/or traffic signals where permitted. The fiber network would be built within the public right of way. The project would incorporate both existing fiber network that is currently in conduit that sits within the public right of way and new fiber network. The new fiber network would also be placed within existing conduit that sits within the public right of way. Each of the small cell sites would consist of a vault, located on the sidewalk, next to the existing street light and/or traffic signal, and an antenna with associated radio and equipment within a cabinet that would be placed on the existing streetlight/ traffic signal at each site.

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**ENTITY CONSIDERING PROJECT APPROVAL:** City of San Diego Staff

**ENVIRONMENTAL DETERMINATION:** CEQA Exemption 15301 (Existing Facilities)

**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego

**STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:** The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project, as described in the Project Description section of this notice, meets the criteria set forth in CEQA Section 15301 which allows for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing facilities (public or private), involving negligible or no expansion of use beyond that existing at the time of the determination. The project, as detailed in the Project Description section of this notice, would result in a negligible expansion of use. Additionally, none of the exceptions described in CEQA

Guidelines Section 15300.2 apply.

**CITY PROJECT MANAGER:** Enza Charles  
**MAILING ADDRESS:** 1200 Third Avenue, Suite 1700, MS 51A  
San Diego, CA 92101  
**PHONE NUMBER/E-MAIL:** (619) 236-6052/ECharles@sandiego.gov

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On July 27, 2016 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

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This information will be made available in alternative formats upon request.

