



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
06/19/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office 199 Water Street New York NY 10038-3551 USA	CONTACT NAME:	
	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105
INSURED Cellco Partnership d/b/a Verizon Wireless 15505 Sand Canyon Ave. Irvine CA 92618 USA	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A: National Union Fire Ins Co of Pittsburgh	19445
	INSURER B: New Hampshire Ins Co	23841
	INSURER C: Illinois National Insurance Co	23817
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 570054229517

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC ☐ OTHER:			GL 206032 Please Sign and date) Lessee Name: Check Certificate for compliance and lease requirements Confirm Lease ID# in certificate to Admin Staff to process	06/30/2014	06/30/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$2,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY			CA 350-06-58 AOS	06/30/2014	06/30/2015	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
A	☒ ANY AUTO			CA 350-06-59 MA	06/30/2014	06/30/2015	BODILY INJURY (Per person)
A	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS			CA 350-06-60 VA	06/30/2014	06/30/2015	BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000			49131372	06/30/2014	06/30/2015	EACH OCCURRENCE AGGREGATE
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC026035004 AOS	06/30/2014	06/30/2015	☒ PER STATUTE ☐ OTH-ER
A	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC027527697 CA	06/30/2014	06/30/2015	E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contract #38846, 10590 North Torrey Pines Road, La Jolla, CA 92037 commonly known as the Hilton La Jolla Torrey Pines Hotel. Licensor, Hilton Hotels Corporation its affiliates and subsidiaries and the Hotel and The City of San Diego, its elected officials, Officers, employees, representatives and agents are included as Additional Insured, where required by written contract, except for Workers Compensation and Employers Liability. Coverage is primary and non-contributory.

CERTIFICATE HOLDER**CANCELLATION**

The City of San Diego Real Estate Assets Department 1200 3rd Avenue, Suite 1700 (MS 51A) San Diego CA 92101 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast Inc.</i>

Holder Identifier :

Certificate No : 570054229517



ADDITIONAL REMARKS SCHEDULE

Page _ of _

AGENCY Aon Risk Services Northeast, Inc.		NAMED INSURED Cellco Partnership	
POLICY NUMBER See Certificate Number: 570054229517			
CARRIER See Certificate Number: 570054229517	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	WORKERS COMPENSATION						
C		N/A		WC026035009 FL	06/30/2014	06/30/2015	
B		N/A		WC026035011 MN	06/30/2014	06/30/2015	
B		N/A		WC026035012 MA, MI, ND, OH, WA, WI, WV, WY	06/30/2014	06/30/2015	
B		N/A		WC026035006 IL KY NC NH UT VT	06/30/2014	06/30/2015	
B		N/A		WC026035007 AK AZ GA VA	06/30/2014	06/30/2015	
B		N/A		WC026035008 NJ PA	06/30/2014	06/30/2015	
B		N/A		WC026035010 ME	06/30/2014	06/30/2015	

**CITY OF SAN DIEGO
CONSENT TO LICENSE AGREEMENT
(TRANSMIT CARRIER)**

THIS CONSENT TO LICENSE AGREEMENT (TRANSMIT CARRIER) ("Agreement") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY") and CHH TORREY PINES HOTEL PARTNERS LP, a Delaware limited partnership ("PARTNERS"). This Agreement shall be effective as of April 28, 2014 upon execution by the parties and approval by the San Diego City Attorney ("the "Effective Date"), as follows:

RECITALS

This Agreement is made with regard of the following facts:

- A. CITY is the lessor under that certain CITY OF SAN DIEGO PERCENTAGE LEASE dated August 10, 1987, as amended by that certain FIRST AMENDMENT TO LEASE AGREEMENT filed in the Office of the San Diego City Clerk on May 21, 2002, as Document No. RR-296517, and that certain Torrey Pines Golf Course Agreement on Reserved Nonresident Tee Times, effective September 27, 2002, and as may be further amended from time to time (the "Hotel Lease," attached hereto as **Exhibit A: Hotel Lease**). TORREY PINES HOTEL ASSOCIATES, a California general partnership ("TPH Associates"), was the original lessee under the Hotel Lease.
- B. TPH Associates caused the real property that is the subject of the Hotel Lease (the "Hotel Property," defined as the "premises" or "leased premises" in the Hotel Lease) to be developed with certain buildings and other improvements comprising a hotel, parking, restaurant, and related facilities commonly known as the "Hilton La Jolla Torrey Pines."
- C. HILTON HOTELS CORPORATION, a Delaware corporation doing business as "Hilton La Jolla Torrey Pines" ("HILTON"), succeeded TPH Associates as lessee under the Hotel Lease pursuant to that certain ASSIGNMENT AND ASSUMPTION OF PERCENTAGE LEASE AND DEED TO IMPROVEMENTS dated December 29, 1998, and recorded in the Office of the San Diego County (California) Recorder as Instrument No. 1998-0853813.
- D. PARTNERS succeeded HILTON as lessee under the Hotel Lease pursuant to that certain ASSIGNMENT AND ASSUMPTION OF PERCENTAGE LEASE AND DEED TO IMPROVEMENTS, dated December 17, 2003, and recorded December 18, 2003, in the Office of the San Diego County (California) Recorder as Instrument No. 2003-1487568.
- E. PARTNERS as lessor ("Sublessor") subleased the Hotel Property to CHH TORREY PINES TENANT CORPORATION, a Delaware corporation ("Sublessee") under that certain AMENDED AND RESTATED LEASE AGREEMENT dated as of April 11, 2007, as amended by that certain FIRST AMENDMENT TO LEASE AGREEMENT, dated April 1, 2009, and by that certain SECOND AMENDMENT TO LEASE AGREEMENT, dated January 1, 2013.

- F. Sublessee, as licensor, intends to enter into that certain LICENSE AGREEMENT (TRANSMIT CARRIER), (the "License," attached hereto as **Exhibit B: License**) dated 4-16-14, with NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company ("NCWP"), as licensee. The License grants NCWP the license to use portions of the Hotel Property for the purpose of: (i) the transmission and reception of communication signals in the permitted frequency pursuant to all statutes, ordinances, laws, and direction of any governmental unit, authority or agency having jurisdiction thereof, including, but not limited to the Federal Communication Commission ("FCC"), (ii) construction, installation, operation, maintenance, repair, alteration, replacing and operation of NCWP'S facilities as that term is defined and limited in the License in accordance with all applicable law, (iii) the right to test survey and review title on the property, (iv) to add, modify and/or replace equipment as shown on License plans approved by Sublessee and CITY, in order to be in compliance with any current or future federal, state or local mandated applications, including, but not limited to, emergency 911 communication services (the "License Use").
- G. The License Use may be first approved by CITY in writing under Hotel Lease Section 1.3 Uses; therefore, CITY'S consent to the License Use is required.
- H. Under the terms and conditions of this Agreement, CITY will consent to the License and the License Use, as of the Effective Date.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and for valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

- (a) CITY's Consent. CITY consents to the License and the License Use. This consent is granted only on the terms and conditions stated in this Agreement. CITY is not bound by any of the terms, covenants, or conditions of the License. The License is and shall remain subject and subordinate to the Hotel Lease, as may be amended from time to time. If there is a conflict between the License and either the Hotel Lease or this Agreement, the terms, conditions, and obligations of this Agreement and the Hotel Lease shall control. If there is a conflict between this Agreement and the Hotel Lease, the terms, conditions, and obligations of this Agreement shall control.
- (b) Limits of CITY's Consent. Neither the License nor this Agreement will:
- i. release PARTNERS from any liability, whether past, present, or future, under the Hotel Lease as to the Hotel Property or any portion thereof;
 - ii. alter the primary liability of PARTNERS to pay the rent and perform all its obligations under the Hotel Lease, including without limitation payment of Fifteen Percent (15%) of all gross income resulting from use of or occupancy on the Hotel Property pursuant to Section 3.2., c Percentage Rents, of the Hotel Lease, including on all income obtained by or derived from all sublessees or licensees on the Hotel Property ;

- iii. be construed as a waiver of CITY's right to consent to any proposed sublease, license or assignment after the date hereof by PARTNERS under the Hotel Lease or by NCWP under the License, or as a consent to any portion of the Hotel Property being used or occupied by any other party;
- iv. grant any rights to NCWP to assign or transfer any right or interest in or under the License to any entity without City's prior written consent, notwithstanding anything to the contrary in Section 11 or any other portion of the License;
- v. grant any rights to NCWP greater than those rights granted to PARTNERS under the Hotel Lease;
- vi. be deemed CITY consent to any other assignment or sublease;
- vii. require CITY to recognize NCWP in the event of a default in the Hotel Lease by PARTNERS;
- viii. enlarge or in any manner increase CITY's obligations or duties under the Hotel Lease;
- ix. create obligations or costs to CITY with regard to the License;
- x. modify, waive, amend, or otherwise affect any provision of the Hotel Lease other than as set forth in this Agreement;
- xi. be deemed to be any type of obligation by CITY to PARTNERS, NCWP, or to any governmental agent, board, commission, or agency with regard to any other action relating to NCWP's occupancy, use, or maintenance of any portion of the Hotel Property or improvements thereon.
- xii. be deemed approval of CITY beyond and in excess of the License transaction.

(c) Approvals & Permits. NCWP shall obtain any and all necessary authorizations, approvals, and permits required to conduct the License Use, including without limitation all use and construction permits, and shall comply with all terms, and conditions of all such authorizations, approvals, and permits.

(d) Equipment and Interference Requirements. For all License Use, PARTNERS must ensure that NCWP shall comply at all times with CITY'S interference protection requirements, attached hereto as **Exhibit C: Equipment Installation** and **Exhibit D: Interference Protection Requirements**.

(e) Possessory Interest Taxes. PARTNERS acknowledge that the License may create a possessory interest subject to property taxation, and that PARTNERS and NCWP may be

subject to the payment of taxes levied on that interest. All such possessory interest taxes, if levied, shall promptly be paid, and payment for such shall in no way create any obligation on the CITY or modify or reduce any obligation due to the CITY.

- (f) Required Insurance. Prior to the Effective Date of this Agreement, PARTNERS must ensure that NCWP shall file with CITY a copy of the policy of insurance which shall name the "City of San Diego, its elected officials, officers, representatives, agents and employees" as additional insureds for the entire term of the License. NCWP shall be insured by an insurance carrier acceptable to the CITY against loss from public liability and property damage arising from the use of or the conduct of any operation conducted on the portion of the Hotel Property subject to the License. NCWP shall maintain minimum coverage in the amount of Four Million Dollars (\$4,000,000) Combined Single Limit Liability. Said policy shall specify that the policy may not be terminated, altered or canceled without thirty (30) days prior written notice to CITY by insurance company. Prior to each insurance renewal period, NCWP shall submit to CITY a copy of the new policy of insurance.
- (g) Controlling Law. The terms and provisions of this Agreement will be construed in accordance with, and will be governed by, the laws of the State of California.
- (h) Entire Agreement. This Agreement constitutes the final, complete and exclusive statement between the parties to this Agreement pertaining to the terms of CITY's consent to the License, supersedes all prior and contemporaneous understandings or agreements of the parties regarding CITY'S consent to the License, and is binding on and inures to the benefit of their respective heirs, representatives, successors, and assigns. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in Agreement. Any agreement made after the date of this Agreement is ineffective to modify, waive, or terminate this Agreement, in whole or in part, unless that agreement is in writing, is signed by the parties to this Agreement, and specifically states that agreement modifies this Agreement.
- (i) Partial Invalidity. If any term, covenant, or condition in this Agreement is, to any extent, held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of that term, covenant, or condition to persons or circumstances other than those as to which it is held to be invalid or unenforceable, will not be affected by that invalidity or unenforceability, and all other terms, covenants, and conditions of this Agreement will be valid and enforceable to the fullest extent permitted by law.
- (j) CITY's Consent Null and Void. If at any time, either PARTNERS or NCWP fails to comply with any of the terms and conditions set forth in this Agreement, PARTNERS shall be subject to the noticing and cure processes of Hotel Lease section 4.12. If PARTNERS thereafter fail to comply and remedy any noticed breach of this Agreement or alleged default, then, this Agreement shall automatically become null and void retroactive to the Effective Date, regardless of if or when CITY learns or is informed of any such failure to comply. Any such failure to comply with any term or condition of this Agreement shall constitute a default

under the Hotel Lease and the CITY may avail itself of any rights and remedies available under the Hotel Lease and at law and in equity.

- (k) No Affiliation. Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PARTNERS or NCWP or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PARTNERS, NCWP, or any other party or entity.

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IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

Date: 4/16/14

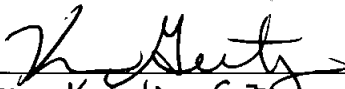
CHH TORREY PINES HOTEL PARTNERS LP, a
Delaware limited partnership

BY: CHH TORREY PINES HOTEL GP, LLC, its
general partner, a Delaware limited liability
company

BY: 
Name: David A. Brooks
Title: Vice President

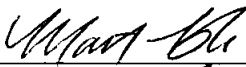
Date: 4/28/14

THE CITY OF SAN DIEGO, a California municipal
corporation

BY: 
Name: Kristin Gertz
Title: Interim Director Real Estate Assets

ENVIRONMENTAL CLEARANCE:

Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section
15303 (New Construction).

BY: 
Name: Martha Blake
Title: Senior Planner

APPROVED AS TO FORM AND LEGALITY:

Date: 4/28/14
(required)

JAN I. GOLDSMITH, City Attorney

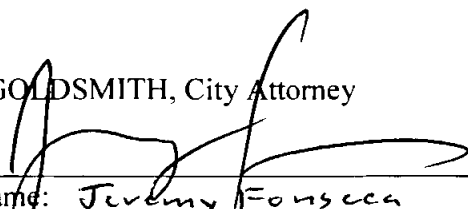
BY: 
Name: Jeremy Fonseca
Title: Deputy City Attorney

Exhibit A: Hotel Lease

[TO FOLLOW BEHIND THIS PAGE]

Exhibit B: License

[TO FOLLOW BEHIND THIS PAGE]

EXHIBIT "B"
**LICENSE AGREEMENT
(TRANSMIT CARRIER)**

THIS LICENSE AGREEMENT ("*License*"), made this 16th day of April, 2014, by and between Licensor and Licensee.

1. Business Terms. For purposes of this License, the following capitalized terms shall have the meanings set forth in this article 1:

- (a) **Licensor:** CHH Torrey Pines Tenant Corporation
- (b) **Licensor's Notice Address:** Hilton La Jolla Torrey Pines
14185 N. Dallas Parkway, Suite 1100
Dallas, Texas 75254
- (c) **Licensee:** New Cingular Wireless PCS, LLC, a Delaware limited liability company

- (d) **Licensee's Notice Address:** New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site # SS0074
Cell Site Name: Hilton Torrey Pines (CA)
Fixed Asset # 10090958
575 Morosgo Drive NE
Suite 13-F, West Tower
Atlanta, Georgia 30324

With a required copy to:
AT&T Legal Department- Network
Attn: Network Counsel
Re: Cell Site # SS0074
Cell Site Name: Hilton Torrey Pines (CA)
Fixed Asset # 10090958
208 S. Akard Street
Dallas, Texas 75202-4206

- (e) **Manager:** Hilton Hotels Corporation
10950 North Torrey Pines Road
La Jolla, CA 92037

(e) **Intentionally Deleted.**

(f) **Intentionally Deleted.**

(g) **Building:** That certain building currently known as Hilton La Jolla Torrey Pines, having a street address of 10950 N. Torrey Pines Road La Jolla, CA 92037.

(h) **Property:** The parcel of land on which the Building is located, together with the Building and other real property improvements on such parcel.

(i) **Licensed Premises:** That certain portion of the Property as depicted on Exhibit A attached hereto.

(j) **Intentionally Deleted.**

(l) **Initial Term:** The initial term of this License shall be for 10 years, subject to adjustment as

set forth in paragraph 1(n) herein, commencing on the Commencement Date and expiring on the Expiration Date.

(m) Commencement Date: The date which is the earlier of (i) the date that Licensee commences the construction or installation of the Licensee's Facilities (as defined in paragraph 1(w)) on or at the Licensed Premises or any other portion of the Building or the Property licensed to Licensee hereunder; or (ii) the first day after expiration of the Due Diligence Period pursuant to article 7 hereof. However, if on the first day after expiration of the Due Diligence Period, the Licensor has not approved the Licensee's Plans, then the Commencement Date shall be the first day after Licensor's approval of Licensee's Plans.

(n) Expiration Date: At 11:59 p.m. on the last day of the calendar month in which the tenth anniversary of the Commencement Date occurs, provided however, if the Commencement Date occurs on the first day of a calendar month, then the Expiration Date shall occur on the day immediately preceding the tenth anniversary of the Commencement Date, but subject to extension for each effective Renewal Term.

(o) Renewal Term: Subject to article 4 hereof; each of the two successive periods of 5 years each, with the first Renewal Term commencing upon the expiration of the Initial Term and each subsequent Renewal Term commencing upon the expiration of the immediately preceding Renewal Term.

(p) Term: The Initial Term, each Renewal Term for which Licensee has not given notice of its election not to renew the License as further provided in paragraph 4(b) and any holdover term.

(q) Holdover Term: As defined in article 4(c).

(r) Commitment Deposit: N/A.

(s) Security Deposit: N/A.

(t) License Fee: During the first License Year, the License Fee shall be the sum of Thirty Thousand Ninety Six and No/100 Dollars (\$30,096.00), payable in equal monthly installments of Two Thousand Five Hundred Eight and No/100 Dollars (\$2,508.00) on the Commencement Date and on the fifth day of each calendar month thereafter and otherwise in accordance with the terms of paragraphs 5(b) and 5(c). The initial License Fee payment shall be paid within thirty (30) days of the Commencement Date. Beginning in the second License Year and continuing through the Term, the License Fee shall be increased on the first day of each License Year to a sum equal to 104% of the License Fee paid for the immediately preceding License Year.

(u) License Year: Each twelve (12) consecutive calendar month period, provided that the first License Year shall commence on the Commencement Date and expire on the last day of the calendar month in which the first anniversary of the Commencement Date occurs, unless the Commencement Date occurs on the first day of a calendar month, in which case, the first License Year shall expire on the day immediately preceding the first anniversary of the Commencement Date.

(v) Permitted Frequency: Transmitting frequencies: 1900 to 2200 MHz and 700 to 894 MHz. Receiving frequencies: 1850 to 2200 MHz and 700 to 894 MHz.

(w) Licensee's Facilities: Those certain antennas, equipment, cables and facilities and improvements related to the transmission and reception of communication signals in the Permitted Frequency, including, up to 16 radio transmitting and receiving panel antennas, supporting mounts, and an equipment area, and other equipment relating thereto, all as more fully set forth and described on Exhibit A, attached hereto and incorporated herein by reference.

(x) Estimated Utility Charge: N/A

(y) Construction Oversight Fee: \$1,500.00, payable pursuant to paragraph 8(e).

(z) Reconfiguration Fee: The Reconfiguration Fee shall be equal to one month's License Fee

in effect at the time of the reconfiguration request.

2. **License Granted.** Subject to the terms and conditions of this License and that certain City of San Diego Consent to License (Transmit Carrier) ("***City Consent***"), Licensor hereby grants to Licensee the non-exclusive license and right to use approximately four hundred sixty (460) square feet, together with the right to access electrical facilities and space necessary to connect the Licensee's Facilities, all as depicted on the approved Licensee's Plans (as defined in paragraph 8(a)) (collectively, "***Licensed Premises***") solely for the Permitted Use (as defined in article 3). Licensee shall have exclusive use of the Licensed Premises.

3. **Use.** Licensee shall use the Licensed Premises for the sole purposes of (i) the transmission and reception of communications signals in the Permitted Frequency pursuant to all statutes, ordinances, laws, regulations and directives of any governmental unit, authority or agency having jurisdiction thereof, including, but not limited to the Federal Communications Commission ("***FCC***") (collectively, "***Applicable Law***"); and (ii) constructing, installing, operating, maintaining, repairing, altering, and replacing the Licensee's Facilities in accordance with all Applicable Law; as well as the right to test, survey and review title on the Property; Licensee further has the right but not the obligation to add, modify and/or replace equipment, as shown on Licensee's Plans approved by Licensor, in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services subject to paragraph 8(b) herein at no additional cost to Licensee or Licensor (collectively, "***Permitted Use***"). For a period of ninety (90) days following the start of construction, subject to coordination on times and dates with the general manager of the hotel, Licensor grants Licensee the right to use such portions of Licensor's contiguous, adjoining or surrounding property as described on exhibit D hereto (the "***Surrounding Property***"), as may reasonably be required during construction and installation of the Licensee's Facilities so long as it does not interfere with Licensor's use or the use of any of Licensor's other tenant's use of the property. Licensee has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the main entry point to the equipment shelter or cabinet as set forth on Licensee's Plans. The use granted to Licensee at the Property by this License shall be non-exclusive and limited in strict accordance with the terms of this License. Licensor shall have the right to enter into leases, license agreements and other instruments with others for the Property in the sole discretion of Licensor subject to the rights granted to Licensee pursuant to this License. Licensee shall not locate any equipment in the Licensed Premises that is owned or operated by another provider of telecommunications, video, data or related services unless Licensee receives Licensor's express written consent.

Licensee acknowledges that Licensor's purpose for entering into this License is to improve cell phone reception within the guestrooms of the Building. In the event that cell phone reception is not improved within the guestrooms to Licensor's reasonable satisfaction after installation of Licensee's Facilities, Licensee agrees to install equipment (e.g. a distributed antenna system or alternative system) approved by Licensor at Licensee's sole cost and expense. Licensee's failure to address any reasonable cell phone reception issues within the Building to Licensor's reasonable satisfaction within a reasonable time following Licensor's notice to Licensee shall give Licensor the right to terminate this License upon fifteen (15) days prior written notice.

4. **Term.**

(a) ***Initial Term.*** The Initial Term shall be as set forth in paragraph 1(1), and subject to extension or renewal as set forth in paragraph 4(b). After the passage of the Commencement Date, Licensor shall issue a letter or notice to Licensee confirming the Commencement Date, and if Licensee does not dispute the date set forth in the aforesaid letter or notice within 30 days of the issuance thereof, the date as set forth in Licensor's letter or notice shall be conclusive as a fixing of the Commencement Date. Notwithstanding the foregoing, Licensor may any time after the Initial Term, for any reason or no reason, terminate this Agreement by providing Licensee eighteen (18) months prior written notice and paying Licensee a termination fee equal to six (6) months License Fee.

(b) ***Renewal Term.*** The Initial Term shall be automatically extended for the number of consecutive Renewal Terms set forth in paragraph 1(o), each Renewal Term, if then available, commencing

immediately after the expiration of the Initial Term or the then existing Renewal Term (each such date hereinafter a "**Renewal Term Commencement Date**") and expiring 5 years after the relevant Renewal Term Commencement Date; provided that:

(i) on each Renewal Term Commencement Date, this License shall be in full force and effect and there shall exist no Licensee Event of Default (as defined in paragraph 1.5(a)) and there shall have occurred no event which except for the passage of time or otherwise would constitute a Licensee Event of Default; and

(ii) Licensee shall not have given written notice to Licensor at least 6 months prior to the expiration of the Initial Term or the then existing Renewal Term, as the case may be, stating that Licensee elects not to renew or extend the License for the next succeeding Renewal Term.

(iii) Licensor shall not have terminated Licensee's right to Renew in connection with a sale of the Property.

(iv) Licensor and Licensee agree that the License Fee shall be adjusted to market rates for each Renewal Term as mutually agreed; provided that the License Fee paid during the Renewal Term shall not be less than 104% of the License Fee payable in the immediately preceding year of the applicable Renewal Term.

(c) **Holdover.** If Licensee shall continue to operate the Licensee's Facilities at the expiration of the Term without a written agreement such operation shall be deemed to extend the terms of this License on a month-to-month basis under the same terms and conditions (the "Holdover Term") hereof except that (i) the monthly License Fee shall be in an amount of 150% of the monthly License Fee in effect for the last month of the later of the Initial Term or the most recent Renewal Term and (ii) the month-to-month extension shall be terminable upon 30 days' prior written notice from either Licensor or Licensee to the other; provided, however, nothing contained herein shall grant Licensee the unilateral right to extend the term of this License after the expiration of the Term; further provided, however, that if the parties are negotiating a new license, license extension, license amendment or any other agreement regarding license terms, then the License Fee for the Holdover Term shall be One Hundred Ten percent (110%) of the then current License Fee amount for up to three (3) months unless both parties mutually agree to extend beyond the initial three (3) month period. In addition to the License Fees payable to Licensor in the event of an extension under this paragraph 4(c), Licensee agrees to indemnify and hold Licensor and Manager harmless from all losses, costs, damages and expenses (including reasonable attorneys' fees) arising out of or in connection with the extension, the operation of the Licensee's Facilities, and Licensee's failure to perform all of its obligations under this License at the termination or earlier expiration of this License, except to the extent attributable to the grossly negligent or willful misconduct of Licensor, its employees, agents or independent contractors. The terms and conditions of this License shall be in full force and effect during any Holdover Term.

5. Commitment Deposit and License Fees.

(a) **License Fees.** From and after the Commencement Date through the Term, Licensee shall pay Licensor the License Fee as specified in paragraph 1(t). If the Term commences other than the first day of a month, the License Fee shall be adjusted and prorated for the partial first month based on the number of days from the Commencement Date to the end of the month.

(b) **Payment Processing.** All fees and other sums due to Licensor under this License shall be paid when due, without demand, offset, abatement, diminution or reduction, to Licensor. Payment shall be mailed to Licensor at the Manager's Payment Address. Licensor reserves the right to redirect the payment of any sums due hereunder to any other person or entity or to such other address as Licensor may, from time to time, designate in writing at least thirty (30) days in advance of any payment date.

(c) **Late Payment.** If any payment of the License Fee or any other sums due to Licensor hereunder shall be overdue by more than thirty (30) days, such sums shall thereafter be subject to a late charge equal to 5% of the sums overdue and until paid, bear interest retroactive to the due date thereof at the rate of 12% per annum ("**Interest Rate**"). The imposition of the foregoing shall not prejudice or impair

Licensor's right to declare a Licensee Event of Default.

6. Licensor's Warranties. Licensor covenants and warrants that (i) it has the authority to execute this License and has the power to grant the rights hereunder subject to those interests of record; (ii) its execution and performance of this License will not violate any laws, ordinances, covenants, or the provisions of any mortgage, license or other agreement binding on Licensor, and (iii) as long as Licensee is not in default then Licensor grants to Licensee quiet and peaceful use, enjoyment and possession of the Premises.

7. Due Diligence Period. From and after the date of execution of this License through and including the date which is the earlier of (i) 9 months after the date hereof or (ii) the date that Licensee commences the construction or installation of the Licensee's Facilities ("***Due Diligence Period***"), Licensee and its agents, engineers, contractors and other representatives shall have the right, at Licensee's sole cost and expense and upon reasonable notice to Licensor and Manager, to enter upon the Property to inspect, examine, sample and conduct all engineering tests or studies of the Property which are necessary (A) to determine the feasibility or suitability of the Property for the Permitted Use, and (B) to apply for and obtain all applicable licenses, permits, authorizations, consents and approvals required under Applicable Law (collectively, "***Required Approvals***") to engage in the Permitted Use at the Licensed Premises. Licensor agrees to reasonably assist Licensee with and to execute such applications and with obtaining and maintaining the Required Approvals. Licensee, at its own cost and expense, shall (x) repair any damage caused by such examination or inspection and restore the Property to its condition prior to such testing, normal wear and tear excepted, and (y) provide Licensor and Manager prior to Licensee's or its agents' or representatives' entry upon the Property pursuant to the authority granted in this article 7 with an insurance certificate evidencing the existence of commercial general liability and property damage insurance consistent with paragraph 13(a). If, in the sole and absolute opinion of Licensee, the Licensed Premises is not suitable for Licensee's Permitted Use or Licensee determines that the operation of communications facilities on or within the Licensed Premises would not be in Licensee's best interest, Licensee shall have the right at any time prior to the expiration of the Due Diligence Period to terminate this License by sending written notice of termination to Licensor. If Licensee does not terminate this License prior to the expiration of the Due Diligence Period, then Licensee will be deemed to have waived the right to terminate this License pursuant to this article 7, and to have accepted the condition of the Licensed Premises, the Building and the Property in their "AS IS" condition as of the Commencement Date.

8. Installation and Maintenance.

(a) ***Licensee's Plans.*** Prior to the initial installation of Licensee's Facilities, Licensee shall submit plans to Licensor and Manager with respect thereto ("***Licensee's Plans***") for Licensor's written approval in accordance with this article. Licensor's approval will not be unreasonably withheld, conditioned or delayed (and in no event delayed beyond fifteen (15) business days). Licensee's Plans will be considered incorporated in this License as Exhibit A. If the Licensor disapproves Licensee's Plans then Licensee will provide Licensor with revised Licensee's Plans, such revisions to be within Licensee's reasonable discretion. In the event Licensor disapproves of Licensee's Plans upon a second (2nd) submission and Licensee has revised Licensee's Plans in good faith or if Licensor does not provide a written response to Licensee for the revised Licensee's Plans, Licensee may terminate this License. Licensor will not knowingly permit or suffer any person to copy or utilize Licensee's Plans for any purpose other than as provided in this License and will return Licensee's Plans to Licensee promptly upon request. At a minimum, Licensee's Plans shall indicate:

(i) the location and specifications of Licensee's Facilities in the Licensed Premises;

(ii) the manner of connection of the Licensee's Facilities to any Building systems; and (iii) the identity of any contractors to perform the installation and a description of such contractor's scope of work. It shall be reasonable for Licensor to withhold its consent if, for example, the Licensee's Plans (i) adversely affect the structural integrity of the Building or the proper functioning of any existing mechanical, electrical, sanitary or other systems of the Building; (ii) adversely affect the proper functioning of any other equipment of the Licensor or its tenants and occupants located in the Building or on the Property; or

(iii) adversely affect the aesthetics of the Building. Licensor's approval of any installation of Licensee's Facilities is not a representation that such installation is in compliance with Applicable Law or that it will not cause interference with other communications operations on the Building or at the Property. Licensee will notify Licensor and Manager at least 24 hours prior to commencing Licensee's initial installation of Licensee's Facilities. The initial installation of the Licensee's Facilities shall be in strict accordance with the Licensee's Plans approved by Licensor. Prior to Licensee's entry into the Building or at the Property for the purpose of commencing the installation of Licensee's Facilities, Licensee will at its own cost and expense deliver to Licensor and Manager the certificates of insurance as required under article 13 confirming that such insurance has been obtained and is in effect. Licensor reserves the right from time to time to audit the inventory and functionality of Licensee's Facilities and to confirm Licensee's compliance with the terms of this License; Licensee shall cooperate with Licensor in connection with the prosecution of any such audit.

(b) *Reconfiguration.* Licensee shall seek the approval of Licensor and the City of San Diego after initial approval of Licensee's Plans by Licensor if Licensee desires to modify or reconfigure the Licensee's Facilities and such involves (i) the installation of cable, conduit or wiring in addition to that approved previously by Licensor; or (ii) the installation or modification of any antennas or equipment or (iii) the installation of additional antennas beyond the sixteen (16) on Exhibit A attached hereto ("*Reconfiguration*"); provided, however, that routine maintenance and repairs which do not involve connections to or work on or otherwise adversely affect equipment, cables or other property at the Building, or equipment owned by Licensor or other licensees or third parties, shall not be deemed to be a modification or reconfiguration of the Licensee's Facilities and shall not require the Licensor's prior written approval, but may require approval of the City of San Diego. In connection with a Reconfiguration, Licensee shall give written notice to Licensor and the City of San Diego of Licensee's desired Reconfiguration, accompanied by the Reconfiguration Fee. Upon receipt by Licensor of such written request for Reconfiguration and the Reconfiguration Fee, Licensor shall evaluate for approval the feasibility of Licensee's request, which approval by Licensor shall not be unreasonably withheld, conditioned or delayed. The process to amend Licensee's Plans after the initial approval thereof by the Licensor shall be in accordance with the procedures set forth in this paragraph 8(b). The Reconfiguration Fee compensates Licensor for time and effort expended by Licensor in connection with the review and approval of modifications to Licensee's Plans. The modification of the Licensee's Facilities shall be in strict accordance with the Licensee's Plans approved by Licensor. Licensor reserves the right to assess additional fees or modify the License Fee in connection with a Reconfiguration of the Licensee's Facilities for which plan approval is required under this paragraph 8(b). Notwithstanding the foregoing, Licensee may upon, thirty days prior written notice to Licensor, replace its existing equipment at any time with identical or substantially similar equipment (in dimensions (including weight) in the identical location previously approved by Licensor or add additional frequencies to Licensee's Permitted Frequencies if Licensee holds a license from the FCC for the additional frequencies or it is legally permissible for Licensee to use such frequencies, and there shall be no increase in the License Fee.

(c) *Installation.* At its sole cost and expense, Licensee shall install, construct, operate, maintain, repair replace, and remove the Licensee's Facilities in accordance with all Applicable Law and shall adhere to reasonable written technical standards developed for the Property by the Licensor as amended from time to time and delivered to Licensee provided same are subject to, and not inconsistent with, the terms and conditions of this License. All work by Licensee shall be performed in compliance with Applicable Law and in good and workmanlike manner. Prior to the commencement of any installation of the Licensee's Facilities, Licensee shall, at its expense, obtain any Required Approvals for the commencement and prosecution of such work, and shall at all times use its best efforts to maintain same necessary for the installation and operation of the Licensee's Facilities. All installation and other work to be performed by Licensee will be coordinated with the general manager of the hotel and performed in such a manner so as not to interfere materially with, delay or impose any additional expense upon Licensor. All cables and transmission lines shall be routed and attached in accordance with current, state of the art, industry practices. Licensee shall match as nearly as possible the color of any antennas to the existing facade of the Building. All cabling, conduits and sleeving shall be installed in a good and workmanlike manner. The Licensee's Facilities shall be identified with permanently marked,

weatherproof tags at the following locations: (i) each antenna bracket; (ii) the transmission line building entry point; (iii) the interior wall feed through or any other transmission line exit point; and (iv) any transmitter combiner, duplexer or multi-feed receiver port. In addition, all Licensee's telephone blocks, demarcs and cable shall be clearly identified with the Licensee's name, type of line, and circuit number. Notwithstanding anything to the contrary contained herein, Licensee shall provide Licensor with at least five (5) days prior written notice of the need to use a crane for any installation and will coordinate the schedule with the general manager of the hotel in order to minimize interference with hotel operations.

(d) *Operation and Maintenance of Licensee's Facilities.* Licensee agrees to maintain the Licensee's Facilities in proper operating condition and within industry accepted safety standards and in compliance with the City Consent. All penetrations into any Building surfaces by Licensee shall be sealed so as to prevent any water leakage. Licensor reserves the right to require Licensee to use (i) a roofing contractor specified by Licensor to perform any work which may involve penetrations into the Building's roof or may otherwise render the roof warranty void, and (ii) an electrical contractor specified by Licensor to connect Licensee's Facilities to the electrical system serving the Property. Licensor's right to designate such contractors as aforesaid shall be conditioned upon the cost of such contractors being competitive with charges for similar services within the same geographic region. All utility routes shall be shown on Licensee's Plans. Licensor assume no responsibility for the licensing, operation and/or maintenance of the Licensee's Facilities. Licensee shall comply with all of the terms of its FCC license as it affects the operation of the Licensee's Facilities at the Building.

(e) *Construction Oversight Fee.* After the passage of the Due Diligence Period, Licensee shall pay to Licensor the Construction Oversight Fee, payable within thirty (30) days of invoice by the Licensor. The Construction Oversight Fees shall reimburse Licensor for, among other things, (i) its costs related to the review of Licensee's Plans, and (ii) for the resolution of any post-installation issues that may arise out of Licensee's installation activities.

(f) *Relocation of Licensee's Facilities.* If during the Term, Licensor desires to perform maintenance work to Licensor's equipment located on, near or around Licensee's Facilities, repair or replace any portion of the Building or undertake any other activities on or near the Licensed Premises (collectively, "*Work*"), Licensee agrees to cooperate and work with Licensor to achieve such Work. Licensor agrees to provide at least 180 days prior written notice to Licensee of Licensor's intention to perform such work, except in the cases of emergency Work, in which case Licensor shall give as much notice as possible under the circumstances. Any Work may require the relocation of the Licensee's Facilities located on the roof or Licensee's installation of temporary equipment including, but not limited to, a cell-site on wheels. Any costs or expense associated with such relocation or installation of temporary equipment shall be Licensee's sole responsibility, moreover, if a temporary relocation of the Licensee's Facilities is required to accommodate such Work, the parties shall determine the most technically suitable alternative location which will not impede or impair the Work. Notwithstanding the foregoing, Licensee shall relocate the Licensee's Facilities located on the roof to its original location after the Work is completed unless it is otherwise agreed to utilize the relocated area permanently.

9. **Access.** Licensee and its Authorized Personnel shall be entitled to 24 hour, 7 days per week access to the Licensed Premises for the purpose of conducting its activities consistent with the Permitted Use. For purposes hereof, "*Authorized Personnel*" means employees, engineers, technicians or contractors of Licensee (or persons or entities under direct supervision thereof) who either (A) carry an identification badge identifying them as employees or agents of Licensee, or (B) are employees, engineers, contractors or technicians acting on Licensee's behalf. Licensor shall endeavor to cure any denial of access within 24 hours of Licensee notifying Licensor, however such denial of access shall not exceed 48 hours from when Licensee notifies Licensor. Notwithstanding anything to the contrary, all access to the Licensed Premises by Licensee shall be subject in each instance to the reasonable security requirements and reasonable rules and regulations from time to time in effect at the Building provided same are subject to, and not inconsistent with, the terms and conditions of this License. If Licensee requires access to the Licensed Premises outside of Licensor's normal business hours and Licensor reasonably determines that a specialist is required to be present after normal business hours, Licensee will be responsible for any reasonable out-of-pocket costs incurred by Licensor in engaging the specialist.

10. Interference.

(a) *Generally.* Licensee shall not use the Licensed Premises or the Licensee's Facilities in any way that interferes with the use of the Property by (i) Licensor; (ii) hotel guests and groups; (iii) in-building tenants or licensees of Licensor leasing or licensing space in the Building primarily for the same or similar use as a majority of the other tenants in the Building and which is consistent with the purpose for which the Building is operated, or (iv) other telecommunications licensees or tenants of Licensor whose license or lease commenced at the Building or on the Property in accordance with the provisions of paragraph 10(b), or (v) the terms of the City Consent including specifically Exhibit D thereof. The operation of the Licensee's Facilities shall not interfere with (i) the maintenance or operation of the systems and components of the Property or the Building, including, but not limited to, the roof, MATV, CATV or other video systems, HVAC systems, electronically controlled elevator systems, computers, telephone systems, or any other system serving the Building and/or its occupants or (ii) the operation of any radio or telecommunications equipment installed for the benefit of third party tenants at the Building or the Property prior to the Commencement Date. Upon the written request of Licensor and if a professional RF engineer would reasonably believe testing is required, at any time during this License, Licensee shall conduct at Licensee's sole cost and expense a radio frequency interference analysis of the Licensee's Facilities to confirm Licensee's Facilities are not causing any such impermissible interference. Licensee shall indemnify Licensor and hold Licensor harmless from all expenses, costs, damages, loss, claims or other expenses and liabilities arising from any such interference which is directly attributable to Licensee as the interfering party. If such interference in violation of this paragraph 10(a) cannot be eliminated within 48 hours after receipt by Licensee of notice describing the interference, Licensee agrees to cease immediately all operations (except for testing) until the interference has been corrected to the reasonable satisfaction of Licensor consistent with the industry standard. Licensee shall be responsible for all costs associated with any tests or remediation deemed necessary to resolve any and all interference for which Licensee is responsible under this paragraph 10(a). If such interference has not been corrected within 45 days, Licensor may require Licensee to remove the specific items of the Licensee's Facilities causing such interference or Licensee shall have the option to terminate this License upon written notice to Licensor only if Licensee has undertaken all reasonable, good faith efforts to resolve the interference. All operations by Licensee shall be lawful and in compliance with all Applicable Law, including, but not limited to, FCC rules and regulations. Licensee shall be responsible for all costs associated with any testing necessary to resolve any and all interference which Licensor determines or reasonably believes consistent with industry standards, is being caused by the Licensee's Facilities or the Permitted Use.

(b) *Priority of Licensee.*

(i) Licensed Frequencies. As used herein, "**FCC Licensed User**" shall mean any licensee of Licensor at the Property, including Licensee, which is licensed or authorized by the FCC or by law to utilize certain bandwidths of the radio frequency spectrum ("**Licensed Radio Frequency Spectrum**") in the geographic area where the Building is located. Licensee's priority, with respect to any Licensed Radio Frequency Spectrum utilized by Licensee, and other FCC Licensed Users shall be determined by the date each FCC Licensed User's license with Licensor commences at the Building. Such priority shall be maintained so long as the FCC Licensed User does not change or modify its equipment that it has located at the Property or the Licensed Radio Frequency Spectrum in which it transmits and receives at the Property at the time of such commencement. The priority position of each FCC Licensed User, with respect to interference protection as described in paragraph 10(a), shall adjust if the FCC Licensed User changes its equipment or Licensed Radio Frequency Spectrum, to be determined as of the date of such change. Under the terms of certain pre-existing agreements with one or more FCC Licensed Users at the Property, which agreement(s) commenced before this License ("**Prior FCC Licensed User**"), such Prior FCC Licensed Users may be permitted to make certain modifications to their equipment or Licensed Radio Frequency Spectrum and completion of such modifications shall not result in a change to such Prior FCC Licensed User's position with respect to priority protection from interference.

(ii) Unlicensed Frequencies. As used herein, "**FCC Unlicensed User**" shall mean

any licensee of Licensor at the Property, including Licensee, that utilizes certain bandwidths of radio frequency that are not licensed by the FCC and are available for use by the general public ("**Unlicensed Radio Frequency Spectrum**") in the geographic area where the Property is located. Notwithstanding any other provision contained herein, the priority position among FCC Unlicensed Users shall at all times be inferior to that of FCC Licensed Users. To the extent that Licensee is an unlicensed user, Licensee shall have no priority with respect to any other FCC Unlicensed Users pursuant to the provisions of this License with respect to frequency interference or congestion issues. Licensee's rights and obligations with respect to such interference and/or congestion, if any, shall be determined and governed by the rules and regulations of the FCC and any other applicable regulatory authority having jurisdiction thereof. Licensor expressly disclaims any and all warranties and accepts no responsibility for management, mediation or resolution of frequency interference or congestion among FCC Unlicensed Users operating at the Property.

(c) *Reservation of Rights to Licensor.* Subject to paragraphs 10(a) and 10(b), Licensor reserves the right to lease and/or license other portions of the Property, the Building and/or the rooftop to other parties for telecommunications transmitting and/or receiving sites ("**New Licensees**") during the Term. Licensor agrees that any New Licensees that may install equipment subsequent to the Commencement Date in and/or on the Building and/or the Property will be permitted to install only such equipment or facilities that are of the type and frequency which will not cause material interference to the Licensee's Facilities to the extent provided in paragraph 10(a) and the priority rules set forth in paragraph 10(b). If a New Licensee's equipment causes impermissible interference, provided Licensee is operating in accordance with its FCC license and other Applicable Law, Licensor will cause that interfering New Licensee to take all such necessary or reasonable steps to correct and eliminate the impermissible interference or such interfering New Licensee will be required to remove the specific items causing such interference.

(d) *Noise.* Licensee shall not allow any excessive or objectionable levels of noise to be generated by the Licensee's Facilities during normal operations.

(e) *Emergencies.* Notwithstanding the foregoing, if an emergency situation exists which Licensor reasonably determines, in its sole discretion, to be attributable to the Licensee's Facilities, Licensor shall immediately notify Licensee verbally and Licensor shall follow up with written notice, which shall act diligently and expediently to remedy the emergency situation. Licensee shall commence to remedy the emergency situation as soon thereafter as practicable. Notwithstanding the foregoing, if during such period, Licensee shall act in good faith to remedy the cause of such emergency, Licensor shall exercise commercially reasonable efforts to cause the restoration of whatever services it may have previously disrupted in order to permit Licensee to continue its efforts to remedy the cause of such emergency.

11. Assignment. Licensee may assign this License without the prior consent of Licensor, but with notice to Licensor, to any person or business entity which is an Affiliate of Licensee. For purposes of this section, an "**Affiliate**" is any corporation or other entity which (i) directly or indirectly (through one or more subsidiaries) controls Licensee, or (ii) is controlled directly or indirectly (through one or more subsidiaries) by Licensee, or (iii) is under the common control directly or indirectly (through one or more subsidiaries) with Licensee by the same parent corporation or other entity, or (iv) is the successor or surviving entity by a merger or consolidation of any such entity pursuant to Applicable Law, or (v) purchases substantially all of the assets of Licensee. Upon notification to Licensor of such assignment, Licensee will be relieved of all future performance, liabilities and obligations under this License. For purposes of this article 11, "**control**" means the ownership of more than 50% of the outstanding voting capital stock or the beneficial interest of another entity and the ability to effectively control or direct the business decisions of that other entity. Except as otherwise expressly provided in this article 11, Licensee may not sublicense or permit others to use all or any part of the Licensed Premises; and without Licensor's prior written consent, which consent Licensor shall not unreasonably withhold, condition or delay, assign this License. Any purported assignment not in accordance with the terms hereof shall at Licensor's option, to be exercised at any time after Licensor becomes aware of any such purported assignment, be void and may, at Licensor's option, be treated as a Licensee Event of Default. Notwithstanding anything to the contrary herein, Licensee may not transfer or assign any interest in or

under the License to any entity without the prior written approval of the City of San Diego.

12. Taxes and Assessments.

(a) *Property Taxes.* Licensee shall pay any taxes, assessments, charges, or fees identifiable and directly attributable to the Licensee's Facilities and the use of the Licensed Premises levied under any Applicable Law, including personal property taxes and any increase in real property taxes or assessments chargeable to Licensors resulting from the installation or operation of the Licensee's Facilities and any use and occupancy taxes chargeable with respect thereto so long as Licensee is provided satisfactory evidence indicating that the increase is attributable to Licensee's Facilities. If Licensors receive notice of any such real or personal property or use or occupancy tax assessment for which Licensee is responsible, in whole or in part, Licensors shall promptly provide a copy of such notice and documentation of the assessment to Licensee. Licensee shall have the right to contest, in good faith, the validity or the amount of any tax or assessment levied against the Licensed Premises by such appellate or other proceedings as may be appropriate in the jurisdiction, and may pay same under protest.

(b) *Sales or Use Taxes.* Licensee shall be responsible for reimbursing Licensors for all sales or use taxes billed directly attributed to Licensee's Facilities or Licensee's use of the Licensed Premises. Licensors shall add to the License Fee or any other payment then due and payable any such associated sales or use tax, which shall be paid by Licensee at the same time and in the same manner as the payment of the License Fee or other payment due and payable under this License.

13. Insurance, Release and Hold Harmless.

(a) *Licensee's Insurance.* Licensee shall, at Licensee's sole cost and expense, procure and continue in force during the Term:

- (i) workers' compensation insurance (at statutory limits) and employer's liability insurance with limits of \$1,000,000 each accident/disease/policy limits;
- (ii) commercial general liability insurance providing occurrence form coverage for operations and for contractual liability and with limits of coverage for such insurance of \$1,000,000 for bodily injury and/or property damage for any one occurrence and \$2,000,000 in the aggregate;
- (iii) excess liability (umbrella) insurance with a limit of \$5,000,000 per occurrence and in the aggregate, or primary policy limits equal to the requirements above plus \$5,000,000; and
- (iv) "all risk" property coverage or self-insurance with replacement value coverage insuring the Licensees' Facilities and its appurtenant personal property for its full replacement cost.

All policies shall be written by an insurer rated at least A- by AM Best and eligible to do business within the state where the Property is located and Licensee shall provide at least 30 days' written notice to Licensors of any required coverage that is cancelled or non-renewed and not replaced. Licensee shall cause Licensors and Manager to be included as additional insureds, by endorsement under the insurance policies referenced in items (ii) above with respect to the coverages listed in this paragraph 13(a). Licensee may procure and maintain such coverage required under this paragraph 13(a) under one or more blanket policies of insurance covering the Licensed Premises and other locations of Licensee. Licensee shall cause a waiver of subrogation in favor of Licensors, their respective parent entities, subsidiaries and affiliates, to be included by endorsement, if required by the laws of the state in which the building is located, for all insurance policies with respect to the coverages listed in this paragraph 13(a). Notwithstanding the foregoing, the above limits of insurance shall be subject to periodic review and Licensors reserve the right to increase said coverage limits, if in the reasonable opinion of Licensors, said coverage becomes inadequate and is less than that commonly maintained by licensees in similar buildings in the area by licensees making similar uses. Licensee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this License. In the event Licensee elects to self-insure its obligation under this License to include Licensors and Manager as an additional insured, the

following conditions apply:

(i) Licensor and Licensee shall maintain all rights and obligations between themselves as though Licensee maintained said insurance with a commercial insurer, including any waivers of rights of recovery, other insurance clauses, and any other extensions of coverage required. Licensee shall operate under the same standards of good faith and fair dealing in the administration of its self-insured claims as any commercial insurer. Licensee shall pay from its assets all costs, expenses, damages, claims, losses, and liabilities, including attorney's fees and defense costs to the extent that an insurance company would have been obligated to pay those amounts if Licensee had maintained the insurance. Licensor agrees to maintain adequate loss reserves to fund its self-insurance obligations. Licensor shall not be responsible for payment of any deductible, self-insured retention, or uninsured amount.

(ii) additional insured shall not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Licensor and its employees or where such coverage is prohibited by law or to claims arising out of the gross negligence of Licensor and its employees; and

(iii) additional insured shall not exceed Licensee's indemnification obligation under this License, if any.

(iv) additional insured shall be limited to bodily injury, property damage, or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors.

(v) Licensor shall timely after notice thereof provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like however, Licensor acknowledges that Licensee's obligations hereunder may be limited as the result of a delay by Licensor which actually prejudices Licensee's ability to provide a defense (e.g. default judgment entered with no possibility for judicial review);

(vi) Licensor shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee, which consent shall not be unreasonably withheld, delayed or conditioned; and

(vii) Licensor shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like.

(b) *Contractor's Insurance.* Licensee shall endeavor to require that its contractors (and any subcontractors) produce, prior to commencing any installation, repair, or maintenance work at the Licensed Premises, a certificate of insurance evidencing the existence of the insurance described in clauses (i) and (ii) of paragraph 13(a). Licensee shall self-insure the estimated value of the improvements being constructed by or on behalf of such contractor or subcontractor. All policies under this paragraph 13(b), except workers' compensation, shall include Licensor and Manager as additional insureds and insurers of such required policies shall endeavor to provide a 30 day written notice of cancellation to Licensor and of any required insurance that is not replaced. Such insurance may be carried under one or more blanket policies covering the Licensed Premises and other locations of such contractor or subcontractor, if any. Licensee's subcontractors shall endeavor to provide a waiver of subrogation in favor of Licensor, their respective parent entities, subsidiaries and affiliates, to be included, by endorsement within all insurance policies with respect to the coverages required under this paragraph 13(b). *Mutual Release; provided that, Licensor may exclude from the Property any subcontractor that fails to provide evidence of such waivers.* Notwithstanding anything in this License to the contrary, Licensor and Licensee each release the other and its respective affiliates, employees and representatives from any claims by them or any one claiming through or under them by way of subrogation or otherwise for damage to any person or to the fixtures, personal property, improvements and alterations in or on the Property that are caused by or result from risks insured against under any insurance policy carried by each and required by this License, provided that such releases shall be effective only if and to the extent that the same do not diminish or adversely affect the coverage under such insurance policies and only to the extent of the proceeds received from such policy.

(c) *Licensee's Indemnity.* Licensee shall defend, indemnify and save harmless Licensor, Manager and their respective agents, employees, officers, directors, members, managers, shareholders and partners (collectively, "*Releasees*") against and from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees actually incurred, which may be imposed upon or incurred by or asserted-against any or all of the Releasees for (i) any work or act done in, on, or about the Licensed Premises or any part thereof at the direction of Licensee, its agents, contractors, subcontractors, servants, employees, sublicensees, licensees, or invitees, except if such work or act is done or performed by Releasees or their contractors, agents or employees (ii) any negligence or other wrongful act or omission on the part of Licensee or any of its agents, contractors, subcontractors, servants, employees, sublicensees, licensees, or invitees except if such wrongful act or omission on the part of Licensee is directly or indirectly caused by Releasees or their contractors, agents or employees and (iii) any failure on the part of Licensee to perform or comply with any of the covenants, agreements, terms, provisions, conditions, or limitations contained in this License on its part to be performed except if such failure on the part of Licensee is directly or indirectly caused by Releasees or their contractors, agents or employees and (iv) failure on the part of Licensee to perform or comply with any of the covenants, agreements, terms, provisions, conditions, or limitations contained in the City Consent.

(d) *Waiver of Subrogation* Licensee waives all rights against Licensor for property damage caused by perils to the extent covered by the proceeds of the insurance provided herein, except such rights as they may have to the insurance proceeds. All insurance policies required under this License shall contain a waiver of subrogation provision under the terms of which the insurance carrier of a party waives all of such carrier's rights to proceed against the other party. Licensee's insurance policies shall provide such waivers of subrogation by endorsement or otherwise in accordance with paragraph 13(a). Licensee shall require by appropriate agreements, written where legally required for validity, similar waivers from its contractors and subcontractors. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged. Notwithstanding the foregoing, if insurance policies with such waiver of subrogation provision shall not be obtainable, then the provisions relating to waiver of subrogation as contained in this paragraph 13(d) shall have no effect during such time as insurance policies with a waiver of subrogation shall not be obtainable. If any provision relating to a waiver of subrogation as set forth in this paragraph 13(d) shall contravene any present or future law with respect to exculpatory agreements, the liability of the party affected shall be deemed not released, but shall be secondary to the other's insurer.

(e) *Licensor's Indemnity.* Licensor agrees to indemnify, defend and hold Licensee, its respective agents, employees, officers, directors, members, managers, shareholders, partners, contractor and subcontractors harmless from and against (i) any and all injury, loss, damage or liability (or any claims in respect to the foregoing), costs or expenses (including reasonable attorneys' fees and court costs actually incurred) arising from any act or omission or the negligence of Licensor or its employees, except to the extent attributable to the negligence or intentional act of Licensee, its employees, agents or contractors and (ii) any failure on the part of Licensor to perform or comply with any of the covenants, agreements, terms, provisions, conditions, or limitations contained in this License on its part to be performed.

(f) *Survivorship.* Paragraphs 13(c), 13(d) and 13(e) shall survive the expiration or earlier termination of this License.

14. Removal of the Equipment Upon Termination or Expiration of the License. Within forty five (45) days following any termination of this License and within 10 (days) following the expiration of the current Term, Licensee shall remove all of the above ground Licensee's Facilities from the Property. In performing such removal, Licensee shall restore the Licensed Premises and any personal property and fixtures thereon to as good a condition as they were prior to the installation or placement of the Licensee's Facilities, reasonable wear and tear and casualty excepted. If Licensee fails to remove such Licensee's Facilities within forty five (45) days following any termination of this License and within 10 (days) following the expiration of the current Term, (i) Licensee's Facilities shall be deemed conclusively abandoned by Licensee and Licensor may remove the Licensee's Facilities; (ii) Licensor may dispose of

same in any manner Licensor deems appropriate, all without any liability to Licensee; and (iii) Licensee shall reimburse Licensor for the cost of such removal and restoration of the Licensed Premises in accordance with this section.

15. Event of Default.

(a) *Licensee Event of Default.* It shall be a *Licensee Event of Default* if any one or more of the following events shall occur:

(i) Licensee shall fail to pay when due any License Fee or other sum of money specified hereunder to be paid by Licensee within 10 days after the date the same is due and Licensee shall not remedy such failure within 30 days after written notice thereof from Licensor; or

(ii) Licensee shall cause impermissible interference in violation of article 10 and the same shall not be cured or rectified within the time period set forth in article 10, if any; or

(iii) Licensee shall fail to observe or perform any other terms and conditions of this License to be observed or performed by Licensee other than those specified above, and Licensee shall not remedy such failure within 30 days after written notice of such failure or, if such failure is not reasonably susceptible to being remedied in such period, if Licensee shall not within such period commence to remedy such failure and thereafter exercise commercially reasonable efforts to prosecute such remedy to completion; or

(iv) Licensee shall fail to observe or perform any term or condition of the City Consent within 15 days after written notice from the City of San Diego or from Licensor or if Licensee takes any action or fails to take any action that results in Licensor's breach of its ground lease with the City of San Diego which cannot be cured within the time frame specified under said ground lease with the City of San Diego.

(v) this License or Licensee's interest herein or Licensee's interest in the Licensed Premises is pledged, encumbered, executed upon or attached; or

(vi) Licensee shall make an assignment of all or substantially all of the property of Licensee for the benefit of creditors, or it shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency shall be filed against Licensee under any bankruptcy or insolvency law, or whenever a petition shall be filed against Licensee under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a permanent receiver of Licensee or for the property of Licensee shall be appointed, and if such foregoing event occurs without the acquiescence or consent of Licensee, continues or remains pending for 90 days after the occurrence of such event.

(b) *Remedies for Licensee Event of Default.* After the occurrence of a Licensee Event of Default, Licensor shall have and shall be entitled to pursue any and all legal and equitable rights and remedies permitted by Applicable Law, including, but not limited to the following:

(i) upon 10 days' notice to Licensee, declare to be immediately due and payable, calculated without regard to any early termination of the Term by reason of the Licensee Event of Default or other right to terminate this License, except Licensor Event of Default, a sum equal to (x) all License Fees and other charges, payments, costs and expenses due or payable from Licensee to Licensor or accrued in favor of Licensor at the time of the Licensee Event of Default; (y) the License Fees reserved for the lesser of (A) the remaining Term or (B) the 12 month period commencing with the Licensee Event of Default, and (z) any other charges, payments, costs and expenses herein agreed to be paid by Licensee through the date of the Licensee Event of Default which shall be capable of determination at the time of the Licensee Event of Default; and/or

(ii) upon at least 5 business days' notice to Licensee, whether or not Licensor has elected to recover the sum set forth in clause (i) above, Licensor may terminate this License after a Licensee Event of Default which is after thirty (30) days after Licensee's receipt of the notice from Licensor of Licensee Event of Default subject to 15(a)(iii).

(iii) immediately terminate the License after a Licensee Event of Default under 15(a)(iv) and remove Licensee's Facilities or take other action so as to remedy any breach of the Consent all at Licensee's expense.

Upon a valid termination of this License, all rights of Licensee under this License shall expire and terminate and Licensee shall thereupon quit and surrender possession of the Licensed Premises in accordance with this License.

(c) *Licensor Event of Default.* It shall be a *Licensor Event of Default* if Licensor shall fail to observe or perform any of the terms and conditions of this License to be observed or performed by Licensor, and Licensor shall not remedy such failure as soon as commercially reasonable after written notice thereof is given to Licensor, but in no event later than 30 days thereafter or if such failure is not reasonably susceptible to being remedied within such 30 day period or as otherwise set forth in this License, if Licensor shall not within such 30 day period commence to remedy such failure or as otherwise set forth in this License and thereafter exercise commercially reasonable efforts to prosecute such remedy to completion. Notwithstanding the preceding, it shall be a Licensor Event of Default if Licensor fails to provide access to the Licensed Premises or cure an interference problem within forty-eight hours after receipt of written notice of such default. Upon the occurrence of a Licensor Event of Default, Licensee shall have, and subject to the terms hereof, shall be entitled to pursue any and all legal and equitable rights and remedies permitted by Applicable Law.

(d) **WAIVER OF DAMAGES. NOTWITHSTANDING ANYTHING IN THIS LICENSE TO THE CONTRARY, LICENSEE AND LICENSOR HEREBY ABSOLUTELY WAIVE AND QUITCLAIM TO THE OTHER ANY CLAIM THAT EACH MAY HAVE AGAINST THE OTHER WITH RESPECT TO THE RECOVERY OF ANY INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES.**

16. Termination by Licensee. Following the Commencement Date and except as otherwise provided herein, provided that no Licensee Event of Default exists at the time of Licensee's written notice, or with the mere passage of time or the giving of notice would ripen into a Licensee Event of Default, this License may be terminated by Licensee in the following circumstances:

(a) upon 60 days' prior written notice and without penalty or further liability, if Licensee is unable to obtain, maintain or reinstate within 30 days any easement, license, permit or Required Approval necessary for the construction and operation of the Licensee's Facilities in accordance with the Permitted Use, Licensee at all times using its diligent efforts and good faith to obtain and maintain any and all such easements, licenses, permits and Required Approvals; or

(b) upon 30 days' written notice and without penalty or further liability, if Licensee is unable to operate the Licensee's Facilities in accordance with the Permitted Use on the Licensed Premises as a result of material interference (other than on a temporary, non-reoccurring basis) resulting from the act of any third party which is not contrary or subject to the provisions of article 10; or

(c) upon 90 days' notice and without penalty or further liability, in the event Licensee becomes aware of any hazardous materials on the Property, or any environmental or industrial hygiene condition or matter relating to the Property that, in Licensee's sole determination, renders the condition of the Licensed Premises or Property unsuitable for Licensee's use, or if Licensee believes that the leasing or continued leasing of the Licensed Premises would expose Licensee to undue risks of government action, intervention or third-party liability, Licensee will have the right, in addition to any other rights it may have at law or in equity, to terminate the License upon notice to Licensor; or

(d) unless as otherwise provided for herein, by Licensee upon ninety (90) days prior written notice to Licensor for any reason or no reason, so long as Licensee pays Licensor a termination fee equal

to nine (9) months License Fee.

Upon Licensee terminating in accordance with this article 16, Licensee shall surrender and vacate the Licensed Premises in accordance with Section 14.

17. Utilities.

(a) *Generally.* Commencing on the Commencement Date through the Term, Licensee shall pay for all utilities necessary to operate the Licensee's Facilities. Licensors, at Licensors' option, may either (i) require Licensee to directly contract with the local electrical utility servicing the Property and have such electrical utility install at Licensee's sole cost and expense, separate metering devices to measure Licensee's usage, and Licensee shall pay prior to delinquency the electrical utility directly for such usage based upon such invoices or statements rendered, or (ii) Licensors may permit Licensee the right to connect to the Property's electrical system and install, at Licensee's sole cost and expense, a submeter to measure Licensee's usage of electricity.

(b) *Reconciliation of Utility Charges.* If Licensee is not billed directly by the electrical utility, commencing on the Commencement Date through the Term,

(i) Licensee shall pay for Licensee's power consumption based on the average kilowatt-hour rate actually paid by Licensors to the utility for electricity at the Property, without mark-up or profit but taking into account all direct costs and expenses actually incurred by Licensors to provide such utility, including, but not limited to, the cost of reading any submeter, however the fee to read such meter shall not exceed \$30.00 a month; Licensee shall pay the Estimated Utility Charge per month in addition and payable in the same manner as License Fees payable hereunder, as an estimated payment against utilities consumed by Licensee at the Property;

(ii) after the expiration of each License Year, Licensors shall determine the annual electricity usage by Licensee for such immediately past License Year pursuant to the preceding clause (i) and deliver a statement or invoice from Licensors or Manager reflecting the actual electricity usage and cost by Licensee for the Licensee's Facilities, comparing the sums thus far paid by Licensee to Licensors allocable to such License Year against such actual cost, and if the amount thus far paid and allocable to such License Year is less than the amount due and owing to Licensors for such License Year, Licensee shall pay the difference to Licensors within 30 days of Licensee's receipt of a statement or invoice from Licensors or Manager; and if the amount thus far paid and allocable to such License Year is greater than the amount due and owing to Licensors for such License Year, Licensors shall credit Licensee with such excess against future installments of the Estimated Utility Charge then due and owing, or after the expiration or termination of this License and the Licensee is not otherwise in default, refund to Licensee such excess;

(iii) Licensors shall revise the Estimated Utility Charge for each successive License Year, reflective of the actual amount due and owing from Licensee for the immediately preceding License Year, prorated to reflect monthly usage; and

(iv) the obligations of this paragraph 17(b) shall survive the expiration or termination of this License.

(c) *Interruptions in Service.* Licensors shall not be liable in any respect for damages to either person or property nor shall Licensee be relieved from fulfilling any covenant or agreement hereof as a result of any temporary or permanent interruption of electrical service or of any common heating, ventilation and air conditioning system to the extent provided in paragraph 17(d) below unless such temporary or permanent interruption was caused by the intentional act or intentional omission of Licensors or Licensors's employees, agents or contractors. Licensors shall use reasonable diligence to restore any interruption as promptly as practicable to the extent that Licensors can reasonably effect such restoration but Licensee shall have no claim for consequential damages on account of any interruption. Licensee acknowledges that Licensors may, as a part of its maintenance and repair obligations at the Property, require a temporary interruption of electrical or other service that may cause a temporary disruption of the service

to Licensee or the Licensee's Facilities. Licensor agrees to make a reasonable effort to schedule any shutdown outside the Building's normal business day and to cooperate with Licensee in obtaining temporary alternate power during scheduled maintenance operations. Licensor agrees to give Licensee reasonable prior notice regarding an interruption in electrical service which notice may be oral by calling 1-800-832-6662 and Licensor shall provide notice to Licensee at least 24 hours in advance, except in cases of an emergency. Licensee further agrees that Licensor has no obligation or responsibility to provide emergency or "backup" power to Licensee, and Licensee acknowledges that any such provision of emergency or "backup" power shall be the sole responsibility of Licensee or shall be subject to further agreement with Licensor.

(d) *Sharing of Certain Utility Costs.* Intentionally Deleted.

18. Mechanics Liens. Licensee shall not suffer or permit any mechanic's, laborer's, or materialman's lien to be filed against the Building and the Property or any part thereof by reason of work, labor, services, or materials requested and supplies claimed to have been requested by Licensee; and if such lien shall at any time be so filed, Licensee shall cause it to be canceled and discharged of record (by bonding or otherwise), within 15 days after notice of the filing thereof, and Licensee shall indemnify and hold harmless Licensor from any loss incurred in connection therewith.

19. Casualty and Condemnation.

(a) *Casualty.* Licensor will endeavor to provide notice to Licensee of any casualty affecting the Property within forty-eight (48) hours of the casualty. In case of damage or destruction of the Building due to fire or other casualty, this License shall not terminate provided that to the extent and for such time as the Building or the Licensed Premises are rendered unusable by Licensee as a result of such fire or other casualty, the Licensee Fee and Estimated Utility Charge, if any, shall proportionately abate. Licensor shall have no obligation to repair, restore or rebuild any of the Licensee's Facilities as a result of any fire or other casualty nor be liable for any inconvenience or annoyance to Licensee or any injury to. Subject to the availability of space, Licensor may grant Licensee the right to install a temporary mobile tower facility at the site provided that in Licensor's commercially reasonable opinion, such facility will not hinder any work to be performed repairing, restoring or rebuilding the Building. If Licensee is permitted to install a temporary facility the License Fee and Estimated Utility Charge, if any, shall not be abated however if a temporary facility is not installed by Licensee the License Fee and Estimated Utility Charge shall be abated. In the event the Building or the Licensed Premises is so damaged or destroyed as described above and is not repaired to the extent necessary to permit Licensee's use within ninety (90) days following the date of such damage or destruction, Licensee may provide Licensor written notice of its intention to terminate this License. Upon such termination, Licensee will be entitled to be reimbursed for any prepaid License Fee and Estimated Utility Charge on a prorata basis as of the date of the casualty.

(b) *Condemnation.* In the event Licensor receives notification of any condemnation proceedings affecting the Property, Licensor will endeavor to provide notice of the proceeding to Licensee within forty-eight (48) hours. If the whole or any substantial part of the Property shall be taken by any public authority under the power of eminent domain or in deed or conveyance in lieu of condemnation so as to materially interfere with Licensee's use thereof and benefits therefrom in Licensee's reasonable discretion, then this License shall cease on the date of possession by such authority, and Licensor or Licensee shall have the right to terminate this License and any unearned License Fee paid and Estimated Utility Charge in advance of such termination shall be refunded by Licensor within 30 days following the termination of this License. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Licensee will include, where applicable, the value of its Licensee's Facilities, moving expenses, prepaid License Fee, and business dislocation expenses, provided that any award to Licensee will not diminish Licensor's recovery. Licensee agrees not to make a claim to the condemning authority for any condemnation award to the extent such claim shall diminish or affect the award made to Licensor with regard to such condemnation.

20. Subordination and Attornment.

(a) *Subordination.* This License is and shall be subject and subordinate to all now or hereafter existing (i) ground and underlying leases affecting the Property, the Building or any part thereof; (ii)

mortgages, deeds of trust and similar security documents which may now or hereafter encumber the Property, the Building or any part thereof; and (iii) renewals, modifications, consolidations, replacements and extensions thereof.

(b) *Attornment.* Notwithstanding the foregoing, the party holding the instrument to which this License is subordinate shall have the right to recognize and preserve this License in the event of any foreclosure sale or possessory action, and in such case, this License shall continue in full force and effect at the option of the party holding the superior lien or interest and Licensee shall attorn to such party and shall execute, acknowledge and deliver any instrument that has for its purpose and effect the confirmation of such attornment which is mutually agreeable between the parties.

21. Waiver of Liens and Financing. Licensor hereby subordinates, waives, renounces, and quitclaims any and all statutory liens which Licensor may have with respect to any of the Licensee's Facilities located in the Building or at the Property which are now or in the future pledged for or serve as collateral for any of Licensee's existing or future loans or lines of credit ("Licensee's Loans"). Notwithstanding the foregoing, such subordination shall not apply with respect to any amounts due in excess of the principal balance secured in connection with Licensee's Loans. Provided that Licensee's lenders agree to be bound by Paragraph 14, Licensee may, upon written notice to Licensor (including the name of Licensee's lender and its notice address), pledge or grant a security interest in the Licensee's Facilities to any holder of a security interest that Licensee may select; provided, however, no such pledge or security interest shall extend in any way to the pledge of this License or to any interest or property of Licensor or create a lien or encumbrance on the real estate or any interest to which the Licensee's Facilities are affixed

22. Notices. All notices, demands, requests and other communications hereunder shall be in writing either personally delivered; mailed, via United States certified mail, return receipt requested; or transmitted by overnight courier for next business day delivery to the addresses of Licensor, Licensee and Manager set forth in paragraphs 1(b), 1(d) and 1(e) respectively, or to such other addresses as the parties hereto may, from time to time, designate consistent with this article 22, with such new notice address being effective 30 days after receipt by the other party. Licensee shall send Manager a copy of any notice required to be sent to Licensor. Notices will be deemed to have been given upon either receipt or rejection. Notwithstanding the foregoing, (i) emergency repair notices may be sent via facsimile, (ii) any notice that is given by a party may be given by the attorneys for that party and shall be deemed effective for all purposes herein, and (iii) only notices, letters, documents, or instruments threatening to declare or declaring such addressee or recipient in default under this License shall be required to be sent to the attorneys representing such addressee or recipient.

23. Electromagnetic Emissions. Licensee shall at all times comply with Applicable Law pertaining to non-ionizing radiation or electromagnetic emissions that are either currently enacted or that may become enacted or promulgated during the Term. Licensee shall be responsible for such compliance either with respect to the Licensee's Facilities individually or the integration of the Licensee's Facilities with any other telecommunication facilities or other electromagnetic emitting facilities at the Property. Licensee shall provide at its sole cost and expense reasonable documentation required to evidence such compliance as well as performing all tests to obtain such required documentation which if requested by Licensor more than once in a five-year period shall be at Licensor's expense unless it is necessary to provide such documentation more than once in a five year period to comply with Applicable Law. Licensee shall, at its sole cost and expense, perform such alterations or adjustments to the Licensee's Facilities that may be required during the Term due to a change in or the implementation of Applicable Law, including but not limited to a reduction of the effective radiated power of the Licensee's Facilities, a change in the antenna type or a change in the height of an antenna's main lobe. If antenna power output is presently or hereafter becomes subject to any restriction imposed by the FCC or other governmental agency regarding RF emission standards on maximum permissible exposure limit and/or becomes subject to Applicable Law, Licensee shall comply with Licensor's reasonable request for modifications to Licensee's Facilities, which are reasonably necessary for Licensor to comply with such Applicable Law.

24. Hazardous Substances.

(a) *Generally.* Licensee agrees that it will operate and maintain the Licensed Facilities in

compliance with all environmental laws, rules and regulations, and shall not use, generate, store or dispose of Hazardous Substances on, under, about or within the Property; except for those materials that are necessary and directly related to the Permitted Use, in which case, the use, storage and disposal of such Hazardous Substances shall be in compliance with all Applicable Laws and the highest standards prevailing in the industry. Upon completion of the initial installation of the Licensed Facilities, or within 30 days of a written request from Licensor, Licensee will provide Licensor with any information or documentation relating to any Hazardous Substance used, stored, or disposed of on, under, about or within the Property, which Licensor may be required to file with any governmental agency as required by Applicable Law.

(b) *Indemnity.* Licensee shall indemnify, defend and hold harmless the Releasees from and against any and all losses, claims, suits and damages incurred by Releasees as a result of the presence, use, generation, storage, release or disposal of Hazardous Substances on, under or in the Property and from and against the cost of any required repair, clean-up or remediation incurred by Releasees, in each case only to the extent that such action or costs arise from the presence, use, generation, storage, release or disposal of Hazardous Substances by Releasees, its agents, contractors or employees or the exacerbation of an existing environmental condition. Licensee's indemnification obligation under this paragraph shall survive the expiration or termination of this License. Licensor shall indemnify, defend and hold harmless the Licensee, its shareholders, directors, members, managers, partners, officers employees, agents, successors and assigns (collectively "Licensee's Releasees"), from and against any and all losses, claims, suits and damages incurred by Licensee's Releasees as a result of the presence, use, generation, storage, release or disposal of Hazardous Substances on, under or in the Property and from and against the cost of any required repair, clean-up or remediation incurred by Licensee's Releasees, in each case only to the extent that such action or costs arise from the presence, use, generation, storage, release or disposal of Hazardous Substances by Licensor its agents, contractors or employees, tenants or the exacerbation of an existing environmental condition. Licensor's indemnification obligation under this paragraph shall survive the expiration or termination of this License.

(c) *Definition.* As used herein "*Hazardous Substances*" shall mean any toxic or hazardous substance, polychlorinated biphenyls, friable asbestos, material or waste or any pollutant or infectious or radioactive material, including, but not limited to, those substances, materials or waste now or in the future regulated under Applicable Law pertaining to hazardous substances, materials, wastes, chemical substances or mixtures, toxic substances, air pollutants, toxic pollutants, solid waste or other similar substances or for the protection of health, ecology or environment, including, but not limited to employee or community "right-to-know" laws.

25. Marking and Lighting Requirement.

(d) *Generally.* Licensee shall construct and install the Licensee's Facilities at the Property in compliance with all marking and lighting requirements of the Federal Aviation Administration and the FCC. Should Licensee be cited because the Building or the Property is not in compliance with such regulations and should such non-compliance be the result of another facility at the Property and not the Licensee's Facilities, Licensee may terminate this License if Licensor fails to cause a cure of the conditions of non-compliance within 90 days.

(e) *Lighting Automatic Alarm System.* If lighting requirements are imposed by the Federal Aviation Administration and/or the FCC and a lighting automatic alarm system has been installed by Licensor, Licensor shall allow Licensee to bridge-in to the system to permit a parallel alarm or to install a second alarm (in either case, to the extent permitted under any other lease of the Building, or a portion thereof, that is affected by such actions) if a parallel line would not interfere with Licensor's alarm. Licensee shall be responsible for the cost and expense of maintaining the bridge or second or parallel alarm.

26. Successors and Assigns. This License shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

27. Authority. Licensee and Licensor do each hereby warrant to the other that (i) it is a duly authorized

and existing entity; (ii) it is qualified to do business in the state in which the Property is located; (iii) it has full right and authority to execute and enter into this License and to perform the obligations imposed upon such party without the consent of any other party not had and obtained; and (iv) the execution and performance of this License will not violate any Applicable Law or the provisions of any mortgage, license or other instrument binding upon such party. Further, each of the persons executing this License on behalf of such party does hereby warrant that such person signing on behalf of such party is authorized to do so. Upon either party's request, the other party shall provide evidence reasonably satisfactory to the requesting party confirming the foregoing warranties.

28. Licensee's Facilities. The Licensee's Facilities which is installed or owned by Licensee shall remain the personal property of Licensee notwithstanding the fact that it may be affixed or attached to the Building, and shall, during the Term, and upon termination thereof, belong to and be removable by Licensee consistent with article 14 hereof.

29. Disclaimer of Warranties. LICENSOR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ASSOCIATED WITH THE LICENSED PREMISES, AND LICENSEE ACCEPTS THE LICENSED PREMISES IN AN "AS IS, WHERE IS" CONDITION.

30. Non-Recourse. Notwithstanding anything in this License to the contrary, either express or implied, Licensee acknowledges and agrees that each of the covenants, undertakings and licenses herein made on the part of Licensor are made and intended not as personal covenants, undertakings and licenses of Licensor, or for the purpose of binding Licensor personally or the assets of Licensor, except to the extent of Licensor's interest in the Property; and no personal liability or responsibility is assumed by, nor shall at any time be asserted or enforceable against Licensor, any partner or affiliate of Licensor, or any of their respective heirs, personal representatives and assigns.

31. Rules and Regulations. Notwithstanding anything herein of the contrary, Licensee shall observe any reasonable rules and regulations which may be promulgated by Licensor from time to time affecting the Building or the Property, which rules and regulations shall be delivered to Licensee prior to enforcement thereof against Licensee. In addition, Licensor hereby reserves the right to promulgate rules and regulations from time to time affecting the Interior Space and the Licensed Premises not inconsistent with the terms of this License to insure the orderly use, access, security and maintenance of the Interior Space and the Licensed Premises, which rules and regulations promulgated by Licensor shall be applied on a non-discriminatory basis. In the event of a conflict between such rules and regulations promulgated by the Licensor and this License, the terms of this License shall prevail and supersede such rules and regulations.

32. Maintenance. Licensee will keep and maintain the Licensed Premises in good condition, reasonable wear and tear and damage from the elements excepted. Licensor will maintain and repair the Property and access thereto, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements.

33. Miscellaneous.

(a) *Waiver.* A party's failure to exercise its rights with respect to a breach of any term, covenant or condition contained herein or to insist on strict performance of any of the conditions or provisions of this License, or to exercise any of such party's rights hereunder, shall not be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition contained herein.

(b) *Intentionally Deleted.*

(c) *Governing Law.* This License shall be governed by and construed in accordance with the laws of the state in which the Property is located, without reference to its conflicts of laws principles.

(d) *Business Days.* If the day for performance of any act required under this License falls on a Saturday, Sunday or holiday for which banking institutions in the state in which the Property is located are

generally closed, then the day for such performance, as the case may be, shall be the next following regular business day.

(e) *No Recording* In no event shall this License be recorded in any real property or land records office and any attempt at recording shall be a material default hereunder.

(f) *Counterparts/Scanning*. This License may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument. The parties agree that a scanned or electronically reproduced copy or image of this License shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence hereof notwithstanding the failure or inability to produce or tender an original, executed counterpart of this License and without the requirement that the unavailability of such original executed counterpart of this License first be proven.

(g) *Force Majeure*. The period of time during which either Licensor or Licensee is prevented or delayed in the performance of any non-monetary obligation required to be performed under this License due to delays caused by fire, catastrophe, strikes, labor trouble, civil commotion, acts of God or the public enemy, governmental prohibitions or regulations or other causes beyond such party's reasonable control, shall be added to such party's time for performance thereof, and such party shall not be deemed in default hereunder as a result of such delay.

(h) *Entire Agreement*. This License embodies the entire agreement between the parties and it may not be amended, modified or terminated except by a writing duly signed by the party to be charged. There are no representations or understandings existing prior to the date hereof between Licensor and Licensee which are not stated in this License.

(i) *Severability*. If any of the provisions of this License, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this License shall be valid and enforceable to the fullest extent permitted by Applicable Law.

(j) *No Partnership or Joint Venture*. Licensor and Licensee acknowledge and agree that the relationship between them is solely that of licensor and licensee, and nothing shall be construed to constitute the parties as landlord and tenant, sublandlord and subtenant, employer and employee, partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking. Neither party, nor its employees, agents or representatives shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other. Licensee shall have no property rights or interest in the Licensed Premises, the Building or the Property by virtue of this License.

(k) *Gender/Number*. The pronouns of any gender shall include the other gender, and either the singular or the plural shall include the other.

(l) *Licensor's Right to Assign*. Licensor may assign its rights and obligations hereunder to any party agreeing to assume the obligations of Licensor hereunder thereafter accruing, and from and after such assignment and assumption, Licensor shall be relieved of any and all obligations thereafter accruing under this License, Licensee agreeing to look solely to the assignee or transferee for performance of Licensor's obligations thereafter accruing.

(m) *References*. References in this License to articles, paragraphs or clauses shall refer to those articles, paragraphs or clauses set forth in this License unless the context expressly requires otherwise.

(n) *Headings*. Headings of articles or paragraphs are for convenience only and shall not be considered in construing the meaning of the contents of such articles or paragraphs.

(o) *Attorneys' Fees*. Should either party institute any legal proceedings against the other for breach or failure to perform any provision contained in this License and prevail in such action, the non-prevailing party shall in addition be liable for the cost and expenses of the prevailing party, including its

reasonable attorneys' fees at trial and through appeal.

(p) *W-9*. Licenser agrees to provide Licensee with a completed IRS Form W-9, or its equivalent, upon execution of this Licensee and at such other times as may be reasonably requested by Licensee.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this License as of the date aforesaid.

LICENSOR:

CHH Torrey Pines Tenant Corporation

By: 
Name: David J. Kimichik
Title: President
Date: 4/16/14

LICENSEE:

**New Cingular Wireless PCS, LLC,
a Delaware limited liability company**

By: AT&T Mobility Corporation
Its: Manager

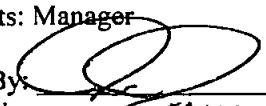
By: 
Name: JAMES JANSMA
Title: AREA DIRECTOR
Date: 04-08-14

Exhibit "A"

Licensed Premises

See attached plan set on the following pages.

Letter's Certificate
Standard Notice to the Public
for Final Construction (10/17)

I, the undersigned, as Licensed Architect of the project described as:
10220 North Torrey Pines Road San Diego, CA 92037
(Address as legal description)

understand that in accordance with the San Diego Municipal Code, Land Development Manual, Section 15.01, the project is required to "Submit" Performance from the Project "Site" and subsequent "Site Design" and "Final Construction" (10/17).

I hereby certify that, to my knowledge, all matters anticipated by the project's Land Use are as follows:

- Reclamation
- Restoration
- Land Use
- Changes to Surrounding Substances
- (1) A. Other
- Reclamation
- Restoration
- Reclamation

I will comply with the following conditions:

- Minimize potential impacts on the environment
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and
- Minimize potential impacts on the environment, public and

Additionally, I will:

- Minimize the use of pesticides
- Use efficient irrigation systems and landscape design - incorporating rate
- Minimize the use of pesticides
- Use efficient irrigation systems and landscape design - incorporating rate

I will maintain the above Standard Performance (10/17) for the duration of the

Letter: KEVIN C. BROWN Company Name: REIT PROPERTY

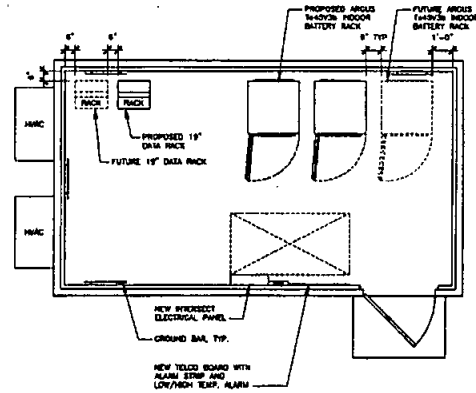
Letter: E.C.B. Date: 8-23-12

NOTES

- A. PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITTEE SHALL INCORPORATE ANY CONSTRUCTION BEST MANAGEMENT PRACTICES NECESSARY TO COMPLY WITH CHAPTER 15, ARTICLE 2, DIVISION 1 (GRADING REGULATIONS) OF THE SAN DIEGO MUNICIPAL CODE, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS.
- B. PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITTEE SHALL SUBMIT A WATER POLLUTION CONTROL PLAN (WPCL) THE WPCL SHALL BE PREPARED IN ACCORDANCE WITH THE GUIDELINES IN APPENDIX C OF THE CITY'S STORM WATER STANDARDS.
- C. THE PROPOSED EQUIPMENT SHELTER WILL NOT BLOCK OR ALTER THE SURFACE DRAINAGE PATTERN OF THE EXISTING MECHANICAL WELL. ALL STORM WATER RUN OFF WITHIN THE MECHANICAL WELL WILL CONTINUE TO BE DIRECTED TO THE EXISTING DRAINAGE CHUTE.
- D. NO EXISTING PARKING SPACE WILL BE USED OR REMOVED BY THIS PROJECT.
- E. THIS PROJECT PROPOSES NO WORK WITHIN THE PUBLIC RIGHT-OF-WAY.
- F. PRIOR TO THE RESUMPTION OF ANY CONSTRUCTION PERMIT, THE PERMITTEE SHALL ENTER INTO A MAINTENANCE AGREEMENT FOR THE EXISTING PERMANENT BMP MAINTENANCE, SUBSIDIARY TO THE CITY ENGINEER.

STORM WATER QUALITY NOTES
CONSTRUCTION BMP'S

THIS PROJECT SHALL COMPLY WITH ALL REQUIREMENTS OF THE STATE PERMIT CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION, ORDER NO. 2011-11, PERMITS NO. CAG000014, CAG000015, CAG000016, CAG000017, CAG000018, CAG000019, CAG000020, CAG000021, CAG000022, CAG000023, CAG000024, CAG000025, CAG000026, CAG000027, CAG000028, CAG000029, CAG000030, CAG000031, CAG000032, CAG000033, CAG000034, CAG000035, CAG000036, CAG000037, CAG000038, CAG000039, CAG000040, CAG000041, CAG000042, CAG000043, CAG000044, CAG000045, CAG000046, CAG000047, CAG000048, CAG000049, CAG000050, CAG000051, CAG000052, CAG000053, CAG000054, CAG000055, CAG000056, CAG000057, CAG000058, CAG000059, CAG000060, CAG000061, CAG000062, CAG000063, CAG000064, CAG000065, CAG000066, CAG000067, CAG000068, CAG000069, CAG000070, CAG000071, CAG000072, CAG000073, CAG000074, CAG000075, CAG000076, CAG000077, CAG000078, CAG000079, CAG000080, CAG000081, CAG000082, CAG000083, CAG000084, CAG000085, CAG000086, CAG000087, CAG000088, CAG000089, CAG000090, CAG000091, CAG000092, CAG000093, CAG000094, CAG000095, CAG000096, CAG000097, CAG000098, CAG000099, CAG000100, CAG000101, CAG000102, CAG000103, CAG000104, 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EQUIPMENT PLAN
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ARCHITECT

La

PROJECT NAME

SS0074
HILTON TORREY PINES
10338 NORTH TORREY PINES ROAD SAN DIEGO, CA 92107

atlat

ISSUED REVISIONS

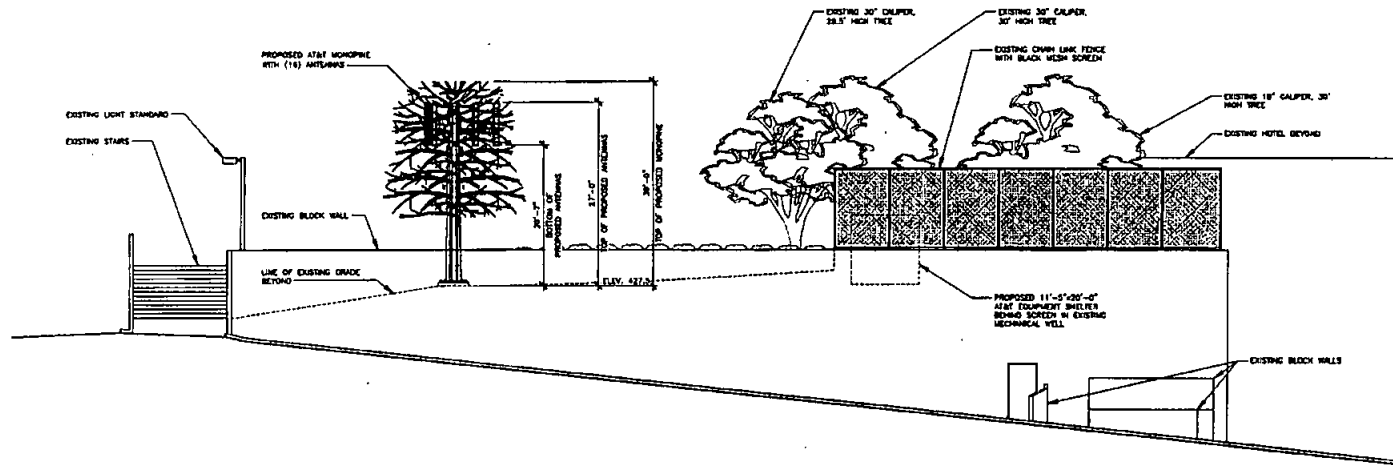
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12-01-10	MM	MM	54. PER REVISED
12-01-10	MM	MM	55. PER REVISED
12-01-10	MM	MM	56. PER REVISED
12-01-10	MM	MM	57. PER REVISED
12-01-10	MM	MM	58. PER REVISED
12-01-10	MM	MM	59. PER REVISED
12-01-10	MM	MM	60. PER REVISED
12-01-10	MM	MM	61. PER REVISED
12-01-10	MM	MM	62. PER REVISED
12-01-10	MM	MM	63. PER REVISED
12-01-10	MM	MM	64. PER REVISED
12-01-10	MM	MM	65. PER REVISED
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12-01-10	MM	MM	67. PER REVISED
12-01-10	MM	MM	68. PER REVISED
12-01-10	MM	MM	69. PER REVISED
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12-01-10	MM	MM	71. PER REVISED
12-01-10	MM	MM	72. PER REVISED
12-01-10	MM	MM	73. PER REVISED
12-01-10	MM	MM	74. PER REVISED
12-01-10	MM	MM	75. PER REVISED
12-01-10	MM	MM	76. PER REVISED
12-01-10	MM	MM	77. PER REVISED
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12-01-10	MM	MM	94. PER REVISED
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12-01-10	MM	MM	97. PER REVISED
12-01-10	MM	MM	98. PER REVISED
12-01-10	MM	MM	99. PER REVISED
12-01-10	MM	MM	100. PER REVISED

SHEET INFORMATION

03 DONATE ASSOCIATES
ARCHITECTURE + GRAPHICS

Z02.1
EQUIPMENT PLAN

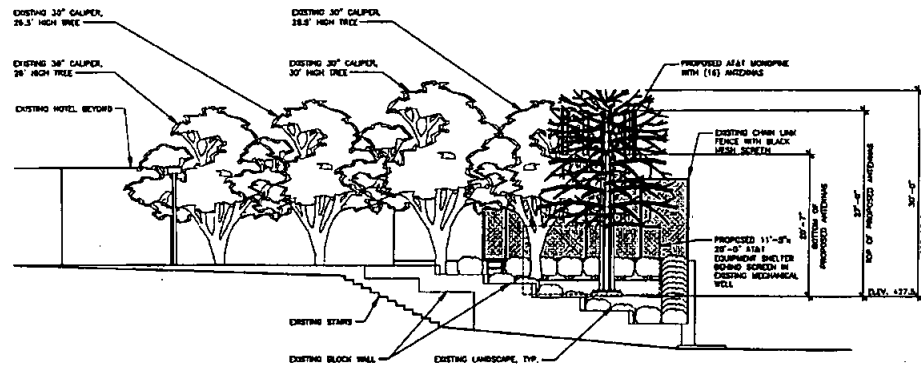
WELLS
PLOT SCALE 1/16" (1/8" IN 1/2" SIZE)



NORTH ELEVATION

1/8"=1'-0"

1



EAST ELEVATION

1/8"=1'-0"

2

ARCHITECT

[a]

atlat
IN ASSOCIATION WITH
HILTON TORREY PINES
ARCHITECTURE + GRAPHICS
300 PINE STREET, SUITE 100, SAN DIEGO, CA 92101
619.594.1234 • FAX 619.594.1235

PROJECT NAME

atlat

SS0074
HILTON TORREY PINES
1000 NORTH TORREY PINES ROAD SAN DIEGO, CA 92107

ISSUES / REVISIONS

DATE	DESCRIPTION
11-15-11	ISSUED FOR PERMIT
11-15-11	REV - 1. ADD NOTES
11-15-11	REV - 2. ADD NOTES
11-15-11	REV - 3. ADD NOTES
11-15-11	REV - 4. ADD NOTES
11-15-11	REV - 5. ADD NOTES
11-15-11	REV - 6. ADD NOTES
11-15-11	REV - 7. ADD NOTES
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11-15-11	REV - 12. ADD NOTES
11-15-11	REV - 13. ADD NOTES
11-15-11	REV - 14. ADD NOTES
11-15-11	REV - 15. ADD NOTES
11-15-11	REV - 16. ADD NOTES
11-15-11	REV - 17. ADD NOTES
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11-15-11	REV - 20. ADD NOTES

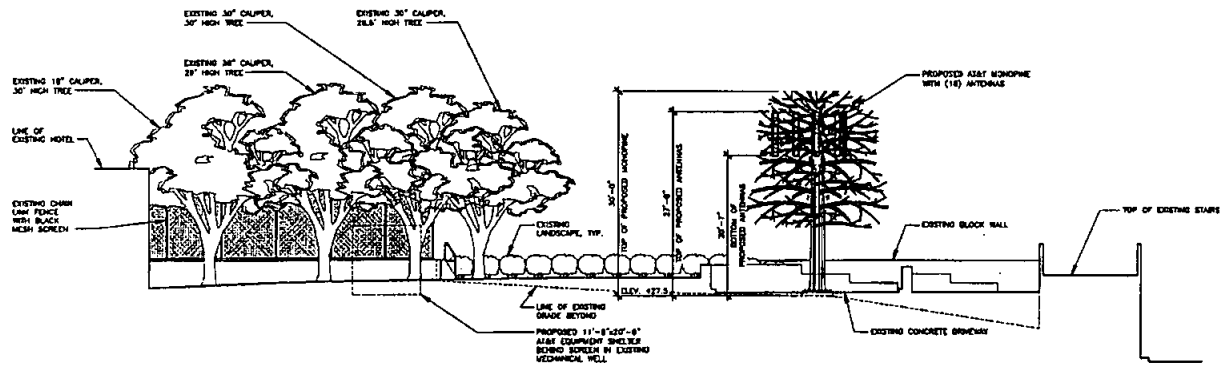
SHEET INFORMATION

WE DO NOT ASSOCIATES
ARCHITECTURE + GRAPHICS

Z03

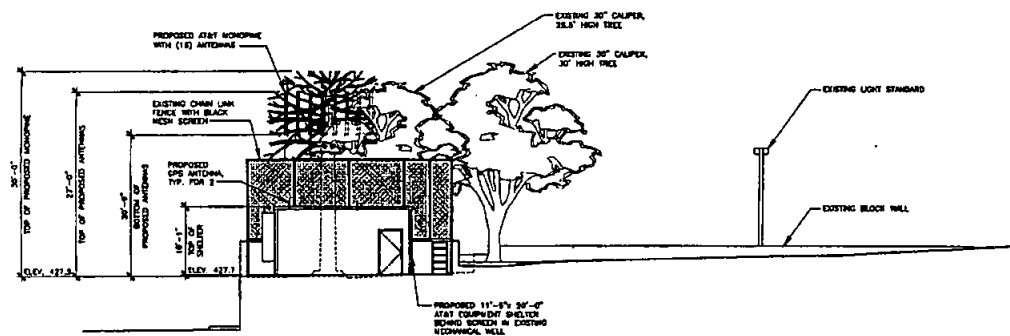
SITE ELEVATIONS

NO. 23
PLOT SCALE 1:1 (ORIGIN TO BEYOND)



SOUTH ELEVATION
1/8" = 1'-0"

1



WEST ELEVATION
1/8" = 1'-0"

2

ARCHITECT

da

DAVID ASSOCIATES
ARCHITECTURE + INTERIOR
3400 WEST AVENUE, SUITE 100, SAN DIEGO, CA 92104
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PROJECT NAME

atat

SS0074
HILTON TORREY PINES
14550 HILTON TORREY PINES ROAD, SAN DIEGO, CA 92131

ISSUE REVISIONS

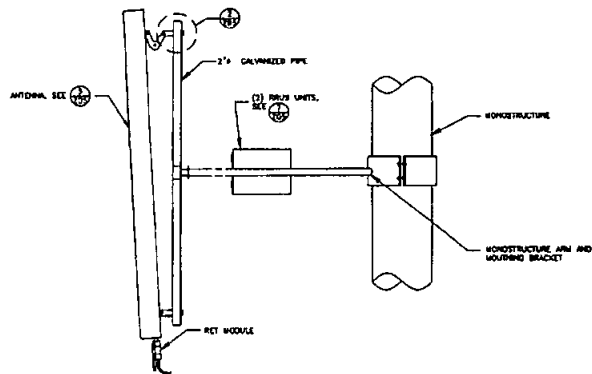
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11-12-12	DA	3. PRELIMINARY
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11-12-12	DA	5. PRELIMINARY
11-12-12	DA	6. PRELIMINARY
11-12-12	DA	7. PRELIMINARY
11-12-12	DA	8. PRELIMINARY
11-12-12	DA	9. PRELIMINARY
11-12-12	DA	10. PRELIMINARY
11-12-12	DA	11. PRELIMINARY
11-12-12	DA	12. PRELIMINARY
11-12-12	DA	13. PRELIMINARY
11-12-12	DA	14. PRELIMINARY
11-12-12	DA	15. PRELIMINARY
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11-12-12	DA	18. PRELIMINARY
11-12-12	DA	19. PRELIMINARY
11-12-12	DA	20. PRELIMINARY

SHEET INFORMATION

IN SERRA ASSOCIATES
ARCHITECTURE + INTERIOR

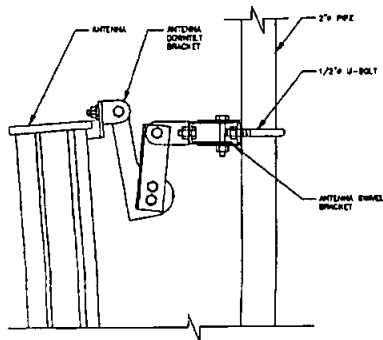
Z04
SITE ELEVATIONS

10/12/12
PLOT SCALE 1/1" = 10'0" @ 11" X 17"



TYPICAL ANTENNA MOUNT
3/4" = 1'-0"

1



ANTENNA BRACKET ATTACHMENT
3/4" = 1'-0"

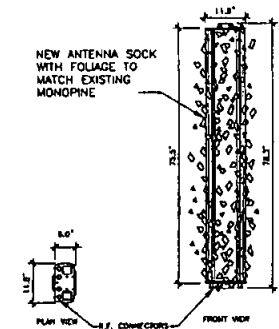
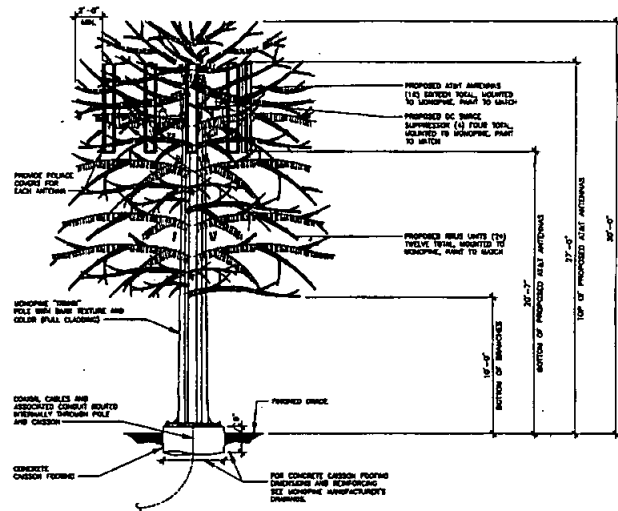
2

NOT USED

3

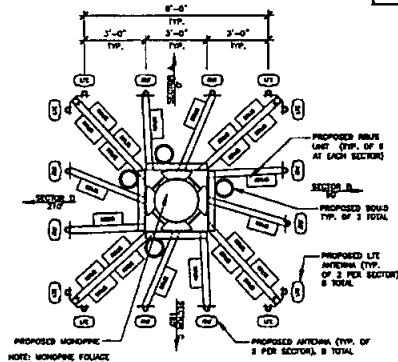
MONOSTUCTURE
1/4" = 1'-0"

4



ANTENNA
3/4" = 1'-0"

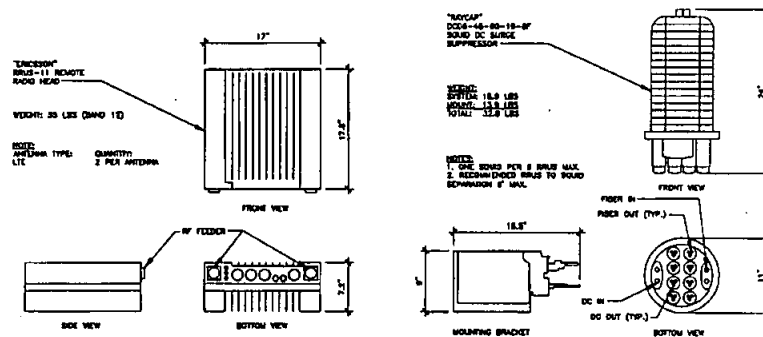
5



6

RRUS UNIT
1-1/2" = 1'-0"

7



8

ARCHITECT

da

DAVID ARNOLD
ARCHITECTS
1000 N. 10TH AVE., SUITE 100, DENVER, CO 80202
303.733.1111 • 303.733.1112 • 303.733.1113

PROJECT NAME

HILTON TORREY PINES

SS0074
1000 N. 10TH AVE., SUITE 100, DENVER, CO 80202

ISSUES REVISIONS

NO.	DATE	DESCRIPTION
1	10/11/11	ISSUED FOR PERMIT
2	10/11/11	REVISIONS TO PERMIT
3	10/11/11	REVISIONS TO PERMIT
4	10/11/11	REVISIONS TO PERMIT
5	10/11/11	REVISIONS TO PERMIT
6	10/11/11	REVISIONS TO PERMIT
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16	10/11/11	REVISIONS TO PERMIT
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20	10/11/11	REVISIONS TO PERMIT

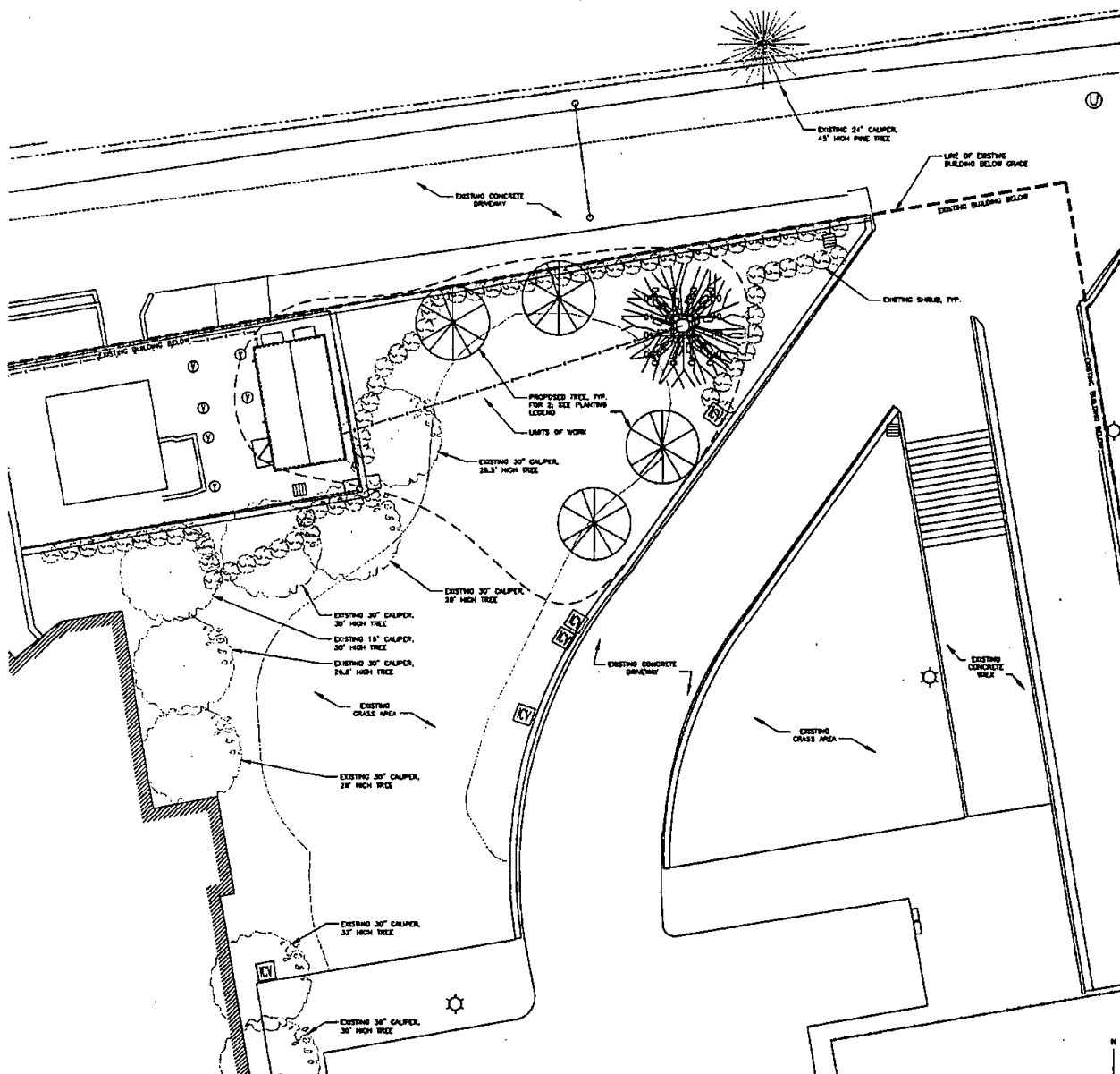
SHEET INFORMATION

IN HONOR OF ARCHITECTS
ARCHITECTURE - DENVER

Z05

ANTENNA DETAILS

1000 N. 10TH AVE., SUITE 100, DENVER, CO 80202
PLOT SCALE 1:1 (SCALE 1/2 INCH)



LANDSCAPE DEVELOPMENT PLAN
1/8"=1'-0"

Symbol	Botanical name	Common name	Size	Qty	Minimum height/width	Form/function
	Pinus ponderosa	MEXICAN PINE	36" dbh	2	100ft	10'-25' TALL AND WIDE
	Pinus ponderosa	MEXICAN PINE	24" dbh	2	100ft	10'-25' TALL AND WIDE
	Ficus microcarpa (cultivar)	MORAY LAUREL	existing	N/A	N/A	VARIES
	Pinus torreyana (cultivar)	TORREY PINE	existing	N/A	N/A	VARIES
	EXISTING PLANT SPECIES	VARIES	existing	N/A	N/A	VARIES

NOTES

- THE PLANTING PLAN IS DIAGRAMMATIC AND SHALL BE USED AS A GUIDE FOR SETTING OUT PLANTS. PRIOR TO PLANTING, THE ARCHITECT SHALL BE CONTACTED TO APPROVE ALL PLANT LOCATIONS AND DIRECT ADJUSTMENTS.
- PLANT MATERIALS SHALL CONFORM TO MANUFACTURER'S STANDARDS FOR SIZE AND HEALTH. ALL PLANTS ARE SUBJECT TO SELECTION BY THE ARCHITECT IF SUBSTANDARD IN SIZE, QUALITY AND HEALTH. PROVIDE WATERPROOF SPECIES IDENTIFICATION TAGS ON ONE PLANT PER SPECIES FOR GRADING.
- PLANT COUNTS ARE FOR THE CONVENIENCE OF THE LANDSCAPE CONTRACTOR ONLY. CONTRACTOR IS RESPONSIBLE FOR ALL PLANTS SHOWN ON THE PLAN.
- LANDSCAPE CONTRACTOR SHALL MAINTAIN A MINIMUM 5' E DRAINAGE FROM ALL BUILDING AND PAVEN GRADERS SMOOTHED TO ELIMINATE PONDING OR STANDING WATER. CONTRACTOR SHALL COORDINATE WITH OTHER TRADES AND MAINTAIN DRAINAGE DURING CONSTRUCTION.
- LANDSCAPE CONTRACTOR SHALL REMOVE ALL EXISTING VEGETATION, TRUNK, CLEMENCE, ROCKS AND OTHER DEBRIS IN PLANTING AREAS. NAME AND FINE CHASE ALL PLANTING AREAS PRIOR TO COMPLETION OF PLANTING OPERATIONS.
- PLANTING PITS SHALL BE PER PLANTING DETAILS.
- PLANTING PITS AND PLANTERS SHALL BE BACKFILLED PER SOIL TEST REPORT FOR PLANTING. CONTRACTOR SHALL PROVIDE RESULTS OF AN AGRICULTURAL SOIL TEST TO THE OWNER. CONTRACTOR SHALL MAINTAIN A LOG OF PLANTING AREAS AND SOIL TESTING RECOMMENDATIONS.
- TREES AND SHRUBS SHALL BE FERTILIZED AT TIME OF PLANTING WITH 21-CALIBR AGRONOMIC SAFETY AT THE FOLLOWING RATES:
CROWNCOVER - 1/2 TABLET
1 GAL. BOX - 1 TABLET
3 GAL. BOX - 3 TABLETS
15 GAL. BOX - 8 TABLETS
24" BOX - 8 TABLETS
36" BOX - 10 TABLETS
48" BOX - 12 TABLETS
- NEWLY PLANT PIT DRAINAGE WITH 24 HOUR WATER TIGHT TEST PRIOR TO PLANTING. ALL BORED TREES NOT DRAINAGE ARE TO HAVE A 4" DIAMETER AUGER HOLE DRILLED THROUGH ANY HANDBURN OR COMPACTED EARTH AS REQUIRED TO PROVIDE DRAINAGE BY 24 HOUR PERIOD.
- POST PLANTING FERTILIZATION SHALL BE PERFORMED BY CONTRACTOR AT 30, 60, & 90 DAYS AFTER PLANTING.
- LANDSCAPE CONTRACTOR SHALL MAINTAIN ALL PLANTINGS FOR A PERIOD OF THREE MONTHS AND SEVEN-FIVE (75) DAYS AFTER FINAL ACCEPTANCE OF THE BUILDING. ALL AREAS SHALL BE KEPT CLEAN, BURNED AND WEED-FREE. ALL DEAD OR DYING PLANTS MATERIALS SHALL BE REPLACED WITHIN TWO (2) WEEKS. OWNER SHALL MAINTAIN SITE AFTER CONTRACTOR MAINTENANCE PERIOD.
- CONTRACTOR SHALL GUARANTEE PLANT LONGEVITY AS FOLLOWS: TREES - ONE YEAR; SHRUBS AND CROWNCOVER - THREE MONTHS.
- WHERE TREE TRUNKS ARE WITHIN 4' OF PAVING, CONTRACTOR SHALL INSTALL ROOF BARRIER BY TWO-BARRIER FOR MANUFACTURER'S SPECIFICATIONS.
- ALL PLANTING MATERIALS SHALL BE MAINTAINED BY THE ARCHITECT. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER AND ALL PLANT MATERIALS SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION.
- ALL LANDSCAPE AND IRRIGATION SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE CITY OF SAN DIEGO'S LANDSCAPE REGULATIONS, THE LAND DEVELOPMENT MANUAL, LANDSCAPE STANDARDS, AND ALL OTHER LANDSCAPE, LOCAL CITY AND REGIONAL STANDARDS.
- ALL CANOPY TREES SHALL BE PROVIDED WITH 40 SQUARE FEET ROOT ZONE AND PLANTED IN AN ARE AND WATER PERMEABLE LANDSCAPE AREA. THE MINIMUM DIMENSION (WIDTH) OF THIS AREA SHALL BE 5 FEET.
- TREE ROOT BARRIERS SHALL BE INSTALLED WHEN TREES ARE PLACED WITHIN 5 FEET OF PUBLIC APPROXIMATIONS INCLUDING WALKS, CURBS, OR STREET PAVEMENT OR WHERE THE PUBLIC APPROXIMATIONS ARE PLACED ADJACENT TO EXISTING TREES. ROOT BARRIERS WILL NOT BE WRAPPED AROUND THE ROOTBALL.

LEGEND & NOTES

NTS

ARCHITECT

at
ARCHITECT
1000 PINE STREET, SUITE 1000
SAN DIEGO, CA 92101
619.231.1111
WWW.ATARCHITECT.COM

PROJECT NAME

SS0074
HILTON TORREY PINES
HILTON TORREY PINES AND SAN DIEGO, CA 92101

ISSUE REVISIONS

NO.	DATE	DESCRIPTION
1	12-12-12	ISSUED FOR PERMIT
2	12-12-12	REVISED PER PERMIT COMMENTS
3	12-12-12	REVISED PER PERMIT COMMENTS
4	12-12-12	REVISED PER PERMIT COMMENTS
5	12-12-12	REVISED PER PERMIT COMMENTS
6	12-12-12	REVISED PER PERMIT COMMENTS
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18	12-12-12	REVISED PER PERMIT COMMENTS
19	12-12-12	REVISED PER PERMIT COMMENTS
20	12-12-12	REVISED PER PERMIT COMMENTS

SHEET INFORMATION

IN CONSULTATION WITH
ARCHITECTURE & GRAPHICS

L01
LANDSCAPE
DEVELOPMENT PLAN

WHEEL
PLOT SCALE: 1"=10' (SEE 'D' SHEET)

Exhibit C: Equipment Installation

1. **Entire Installation.** NCWP represents and warrants that the Communications Equipment listed the License constitutes the entire installation, which NCWP shall update from time to time upon CITY'S request.
2. **Radio Frequency Radiation.** NCWP shall maintain any radio frequency [RF] radiation associated with the Communications Equipment within the levels allowed by federal regulations set forth in Section 1.1310 of CFR 47 and OET Bulletin 65. Any area within one thousand feet of any RF transmitting antenna on the Hotel Property, casually accessible by the general public or by any worker at ground level, shall be maintained below limits stated for General Population/Uncontrolled Exposure. NCWP shall report to CITY any areas discovered by NCWP to exceed such federally mandated limits. NCWP shall not hold CITY responsible for its radiation levels found to exceed such limits. Hazardous RF radiation levels may be encountered when climbing on antenna structures [Refer to FCC OET Bulletin 65]. Any equipment installed on the Hotel Property may, at times, require shutdown to allow maintenance on antenna structures. NCWP shall allow shutdown periods when required for such maintenance, provided CITY uses reasonable efforts to ensure that the shutdowns do not occur during peak hours of operation. Protection of employees performing service on buildings, roofs, air-conditioning equipment, water tanks, communications equipment, or any other maintenance work is of primary concern. Any areas in which such employees may be subjected to radiation levels that exceed the General Population/Uncontrolled Exposure limits must be clearly identified as required by CAL-OSHA. NCWP shall provide CITY with written shutdown procedures, contact names, and telephone numbers. NCWP shall notify CITY, in writing, of any changes to the shutdown procedures, contact names, or telephone numbers at least ten calendar days before the change.
3. **Radio Frequency Interference.** NCWP shall comply with all requirements set forth in Exhibit D, which may be updated from time to time in CITY'S sole discretion. NCWP warrants that all Communications Equipment installations, modifications, and maintenance will not result in degraded performance or RF interference with any CITY-authorized equipment on the Hotel Property, provided that the installation and operation of such CITY-authorized equipment pre-dates the installation of the Communications Equipment at the Hotel Property.
4. **Industry Standards.** NCWP shall perform all Communications Equipment installations, modifications, and maintenance in adherence to industry standards set by the "Standards and Guidelines for Communications Hotel Properties" 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:
 - a. NCWP shall remove all trash and debris from the Premises at the end of each workday and upon completion of a project;
 - b. Tower and structure climbing shall be done in compliance with all CAL-OSHA requirements;

- c. All transmitters shall have all necessary protection, such as cavity filtering and transmitter isolators, to eliminate any RF degradation of the receive signal to other users on the Hotel Property; and
 - d. NCWP shall comply with the requirements stated herein with respect to any Communications Equipment installation or modification or any updates to the “Standards and Guidelines for Communications Hotel Properties” Motorola R56© Manual, or any succeeding regulations or standards by CITY as required from time to time.
5. Co-Location. If the Hotel Property is a shared site, NCWP shall not access any other wireless communication facility or CITY-owned communications equipment (including any towers) on the Hotel Property without CITY’S prior consent.
6. Interference with CITY Operations or Public Use. NCWP’S Operations shall not interfere with CITY operations or public use of CITY-owned property.

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Exhibit D: Interference Protection Requirements

1. Interference. Prior to the Effective Date or at any time during the Term of the License, NCWP may be required to provide an intermodulation report [Report] to CITY. This Report shall include the calculation parameters used to compile the Report, all intermodulation “hits,” a brief description of the results of the intermodulation calculations; a list of possible interference situations that may result from the proposed Communications Equipment; transmission frequencies that are currently being operated at the Hotel Property, and similar or other relevant data from other permittees/lessees/users operating on-site. The information required to compile the Report, including intermodulation parameters and currently known transmission frequencies at the Hotel Property may be obtained from CITY’S General Services Department, Communications Division CITY is not responsible for any omitted data provided for the purpose of creating the Report. The Report shall be provided to CITY’S General Services Department, Communications Division [GSDCD], Attention: Senior Communications Engineer.

2. City of San Diego Land Radio/Electronic Use “ON THE AIR” Test Instructions and Procedures. For the purpose of confirming interference situations calculated by the Report and for the discovery of any other actual interference situations, on-premises, pre-installation or pre-use tests may be required. The tests will determine whether or not radio frequency interference or degraded performance will result to any existing authorized radio/electronic type uses at the Hotel Property.

3. Pre-installation or pre-use Testing

NCWP shall notify all permittees/lessees/users at the Hotel Property of the tests and details of the tests, at least fourteen calendar days in advance of the test. A listing of all permittees/lessees/users operating at the Hotel Property may be obtained from CITY and used to compile a notification list.

(a) The notification shall be in the form of a letter to each listed permittee/lessee/user giving a technical data summary of the test and shall specify the date and hour the test will start. The letter of notification shall request the permittees/lessees/users to have a qualified representative present for the test to observe for possible interference problems and with authority to sign an interference or noninterference certification on behalf of the permittee/lessee/user. Technical Data Summary and Test Results Certification sheets are included below.

(b) A copy of these instructions, “City of San Diego Radio/Electronic Land Use On-The-Air Test Instructions and Procedures” shall be attached to each notification and it shall be noted in the notification letter.

(c) Notification to permittees/lessees/users shall be sent via U.S. Mail, pre-paid First-Class postage, certified return receipt requested or hand delivered.

(d) The notification letter to the GSDCD Senior Communications Engineer shall include a list of all permittees/lessees/users notified.

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

4. On-The-Air Tests - Technical Details

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

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

5. Radio Frequency Interference to City Radio Equipment

The radio equipment use proposed by NCWP shall not directly or indirectly result in degraded technical performance of the CITY'S existing radio equipment installed at the Hotel Property or used in the general area. Resulting degraded technical performance in this instance will include, 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.

6. Modifications to Equipment

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

7. Resulting Interference

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

TECHNICAL DATA SUMMARY

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

DATE _____

LOCATION _____ APPLICANT _____

CALL SIGN _____ CONTACT NAME _____ PHONE _____

TRANSMITTER

RECEIVER

Manufacturer _____ Manufacturer _____

Model _____ Model _____

Emission _____

Radiated ERP _____ Watts

Transmit Frequency _____

Receiver Frequency _____

CTCSS or DCS

1. _____

1. _____

1. _____

2. _____

2. _____

2. _____

3. _____

3. _____

3. _____

4. _____

4. _____

4. _____

ANTENNA

TRANSMIT CAVITY
FILTER ISOLATOR

Make _____

Make _____

Make _____

Model/Type _____

Gain _____ dBd

Azimuth _____

REMARKS:

TEST RESULTS CERTIFICATION

Top section is to be completed and supplied to all permittees/lessees/users operating at the Hotel Property.

Bottom section is to be completed by each existing Hotel Property permittee/lessee/user after testing is finished.

SUBJECT: "ON THE AIR" interference testing

SITE LOCATION _____

FREQUENCY _____

DATE OF TEST _____

TIME OF TEST _____

PROPOSED TRANSMITTER OWNED BY _____

TEST PERFORMED BY _____

Permittee/Lessee/User:

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

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

Details of interference: (if applicable)

Proposed technical resolution: (if applicable)

(Tenant)

(Tenant's Representative)

(Date)