RESOLUTION NO. 17-120

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE LEASE AND WIRELESS TELECOMMUNICATIONS AGREEMENT AND MEMORANDUM OF LEASE WITH NEW CINGULAR WIRELESS

WHEREAS, The City and AT&T (New Cingular Wireless) entered into a Lease and Wireless Telecommunications Agreement dated September 1, 2011 whereby the City (landlord) leased premises at the City's municipal landfill for a cell tower facility, located at 9000 Highway 46; and

WHEREAS, The current renewal period for the lease is August 31, 2021, with two 5-year renewal periods possible, meaning that the lease period expires August 31, 2031; and

WHEREAS, The current Lease and Wireless Telecommunications Agreement calls for the City to complete a market evaluation prior to execution of one of the 5-year renewal periods. That evaluation showed that the current lease rate is at or above market (it is not simple to compare one site to another), and that the 4% annual rent escalator clause is above market (with market being 2.5%); and

WHEREAS, The proposed First Amendment to Lease and Wireless Telecommunications Agreement and Memorandum of Lease calls for the lease to have a new initial 5-year term starting September 1, 2021 at a rate of $4,440 per month. The proposed agreement then calls for three automatic renewal periods of 5 years each, with the lease rate increasing at the start of each of those 5-year periods by 15% ($5,106 per month during the first extension, $5,872 per month during the second extension, and $6,753 per month during the final extension) with a final expiration date of August 31, 2041. Note that the lease agreement calls for the City to receive revenue sharing from any subtenants of AT&T (New Cingular Wireless). Currently T-Mobile is a subtenant (meaning that there is T-Mobile equipment mounted on the cell tower), and the City expects to receive $1,291 per month in revenue sharing in 2021, plus an escalator clause.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby approves the First Amendment to the Lease and Wireless Telecommunication Agreement, and the Memorandum of Lease and authorizes the City Manager to execute the agreements.

Section 3. The City Council hereby authorizes the City Manager and City Attorney to make minor changes to the agreement fully consistent with overall Council direction.

Section 4. This Resolution shall take effect on the date it is approved by the City Council.

APPROVED this 19th day of September, 2017, by the following vote:

AYES: Gregory, Strong, Hamon, Reed, Martin
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Cell Site No. SLG07
Cell Site Name: Paso Landfill
Fixed Asset No.10548038
Market: Los Angeles
Address: 9000 Highway 46, Paso Robles, CA 93446

FIRST AMENDMENT TO LEASE AND WIRELESS TELECOMMUNICATIONS AGREEMENT

THIS FIRST AMENDMENT TO LEASE AND WIRELESS TELECOMMUNICATIONS AGREEMENT ("**Amendment**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is by and between the City of El Paso de Robles, a California municipal corporation, having a mailing address of 821 Pine Street, Suite A, Paso Robles, CA 93446 (hereinafter referred to as "**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive, Atlanta, GA 30324 (hereinafter referred to as "**Tenant**").

WHEREAS, Landlord and Tenant entered into a Lease and Wireless Telecommunications Agreement dated September 1, 2011 (the "**Lease**"), whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at 9000 Highway 46, Paso Robles, California; and

WHEREAS, the current Renewal Term of the Lease will expire on August 31, 2021, and the parties mutually desire to renew the Lease, memorialize such renewal period and modify the Lease in certain other respects, all on the terms and conditions contained herein; and

WHEREAS, Landlord and Tenant desire to amend the Lease to extend the Term of the Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease to adjust the Rent in conjunction with the modifications to the Lease contained herein; and

WHEREAS, Landlord and Tenant desire to amend the Lease to modify the notice section thereof; and

WHEREAS, Landlord and Tenant, in their mutual interest, wish to amend the Lease as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree that the recitals set forth above are incorporated herein as if set forth in their entirety and further agree as follows:

1. **Extension of Term.** As of the Effective Date, the Term provided in the Lease and any extensions thereof, as applicable, shall be void and of no further force and consequence. The Term of the Lease shall be extended to provide that the Lease has a new initial term of five (5) years ("**New Initial Term**") commencing on September 1, 2021 ("**New Term Commencement Date**"). The Lease will automatically renew, commencing on the expiration of the New Initial Term, for up to three (3) separate consecutive additional periods of five (5) years each (each a "**Renewal Term**"), upon the same terms and conditions of the Lease, as amended herein, unless Tenant notifies Landlord in writing of Tenant's intention not to renew the Lease at least sixty (60) days prior to the expiration of the New Initial Term or the then current Renewal Term. The New Initial Term and the Renewal Term(s) are collectively referred to as the Term ("**Term**").

2. **Rent.** Commencing on September 1, 2021, the Rent payable under the Lease shall be Four Thousand Four Hundred Forty and No/100 Dollars ($4,440.00) per month, and shall continue during the Term, subject to adjustment as provided herein.

3. **Future Rent Increase / Extension Term Increase.** The Lease is amended to provide that commencing on September 1, 2026, Rent shall increase by fifteen percent (15.0%) and at the beginning of each Renewal Term thereafter, as applicable.

4. **Notices.** Section 13.05 of the Lease is hereby deleted in its entirety and replaced with the following:

NOTICES: All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site No.: SLG07; Cell Site Name: Paso Landfill (CA)
Fixed Asset No.: 10548038
575 Morosgo Drive
Atlanta, GA 30324

With a required copy of the notice sent to:

New Cingular Wireless PCS, LLC
AT&T Legal Department- Network
Attn: Network Counsel
Re: Cell Site No.: SLG07; Cell Site Name: Paso Landfill (CA)
Fixed Asset No.: 10548038
208 South Akard Street
Dallas, TX 75202-4206

As to Landlord:

City of Paso Robles
Attn: Director of Administrative Services
821 Pine Street, Suite A
Paso Robles, CA 93446

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

5. **Emergency 911 Service.** In the future, without the payment of additional Rent, or any other consideration, and at a location mutually acceptable to Landlord and Tenant, Landlord agrees that Tenant may add, modify and/or replace equipment 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.

6. **Memorandum of Lease.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.

7. **Charges**. All charges payable under the Lease such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of the Lease.

8. **Acknowledgement.** Landlord acknowledges that: 1) this Amendment is entered into of the Landlord's free will and volition; 2) Landlord has read and understands this Amendment and the underlying Lease and, prior to execution of the Amendment, was free to consult with counsel of its choosing regarding Landlord's decision to enter into this Amendment and to have counsel review the terms and conditions of the Amendment; 3) Landlord has been advised and is informed that should Landlord not enter into this Amendment, the underlying Lease between Landlord and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect.

9. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Lease and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Lease otherwise is unmodified and remains in full force and effect. Each reference in the Lease to itself shall be deemed also to refer to this Amendment.

10. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Lease.

[SIGNATURES APPEAR ON THE NEXT PAGE]

Cell Site No. SLG07
Cell Site Name: Paso Landfill
Fixed Asset No.10548038
Market: Los Angeles
Address: 9000 Highway 46, Paso Robles, CA 93446

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute this Amendment on the dates set forth below.

LANDLORD:	**TENANT:**
City of El Paso de Robles, a California municipal corporation	New Cingular Wireless PCS, LLC, a Delaware limited liability company By: AT&T Mobility Corporation Its: Manager
By: _____	By: _____
Name: _____	Name: JAMES STICKNEY
Title: _____	Title: DIRECTOR CTE
Date: _____	Date: 7/18/17

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

Cell Site No. SLG07
Cell Site Name: Paso Landfill
Fixed Asset No.10548038
Market: Los Angeles
Address: 9000 Highway 46, Paso Robles, CA 93446

LANDLORD ACKNOWLEDGMENT

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

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ **(Seal)**

ACKNOWLEDGMENT

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

State of California
County of Orange)

On July 18, 2017 before me, Alma Pineda-Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

ALMA PINEDA
Notary Public – California
Orange County
Commission # 2189811
My Comm. Expires Apr 5, 2021

Signature Alma Pineda (Seal)

ATTACHMENT 1

Memorandum of Lease

Recording Requested By
& When Recorded Return To:

Black Dot Wireless
27271 Las Ramblas - Suite 300
Mission Viejo, CA 92691

APN:025-491-001

(Space Above This Line For Recorder's Use Only)

Re: Cell Site No.: SLG07
Cell Site Name: Paso Landfill
Fixed Asset Number: 10548038
State: California
County: San Luis Obispo

Execution

MEMORANDUM OF LEASE

This Memorandum of Lease is entered into on this ____ day of _____, 2017, by and between the City of El Paso de Robles, a California municipal corporation, having a mailing address at 821 Pine Street, Suite A, Paso Robles, CA 93446 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive, Atlanta, GA 30324 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Lease and Wireless Communications Agreement dated September 1, 2011, as amended by that certain First Amendment to Lease and Wireless Communications Agreement dated _____, 2017 (hereinafter, collectively referred to as the "**Lease**") for the purpose of installing, operating and maintaining a communications facility and other improvements at Landlord's real property located in the City of Paso Robles, County of San Luis Obispo, commonly known as 9000 E Highway 46. All of the foregoing is set forth in the Lease.

2. The term of the Lease commenced on September 1, 2011. The new initial term will be five (5) years ("**New Initial Term**") commencing on September 1, 2021, with three (3) successive five (5) year options to renew.

3. The portion of the land being leased to Tenant (the "**Premises**") is described in **Exhibit 1** annexed hereto.

4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall control. The Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Lease.

[SIGNATURES APPEAR ON THE NEXT PAGE]

NOT FOR EXECUTION

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

City of El Paso de Robles,
a California municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company
By: AT&T Mobility Corporation
Its: Manager

By: _____

Name: _____

Title: _____

Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

NOT FOR EXECUTION

LANDLORD ACKNOWLEDGMENT

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

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ **(Seal)**

NOT FOR EXECUTION

TENANT ACKNOWLEDGMENT

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State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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WITNESS my hand and official seal.

Signature _____ **(Seal)**

NOT FOR EXECUTION

EXHIBIT 1

DESCRIPTION OF PREMISES
Page 1 of 1

to the Memorandum of Lease dated _____, 2017, by and between the City of El Paso de Robles, a California municipal corporation , as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Premises are a portion of the Property located at 9000 Highway 46, Paso de Robles, CA 93446 and legally described and/or depicted as follows:

THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 13, IN TOWNSHIP 26 SOUTH, RANGE 13 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEYOR GENERAL, EXCEPTING THEREFROM SUCH INTEREST AS WAS CONVEYED TO THE COUNTY OF SAN LUIS OBISPO, BY DEED DATED FEBRUARY 15, 1906 AND RECORDED APRIL 13, 1906 IN BOOK 69, PAGE 512 OF DEEDS.

NOT FOR EXECUTION

Recording Requested By
& When Recorded Return To:

Black Dot Wireless
27271 Las Ramblas - Suite 300
Mission Viejo, CA 92691

APN:025-491-001

(Space Above This Line For Recorder's Use Only)

Re: Cell Site No.: SLG07
Cell Site Name: Paso Landfill
Fixed Asset Number: 10548038
State: California
County: San Luis Obispo

MEMORANDUM
OF
LEASE

This Memorandum of Lease is entered into on this ____ day of _____, 2017, by and between the City of El Paso de Robles, a California municipal corporation, having a mailing address at 821 Pine Street, Suite A, Paso Robles, CA 93446 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive, Atlanta, GA 30324 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Lease and Wireless Communications Agreement dated September 1, 2011, as amended by that certain First Amendment to Lease and Wireless Communications Agreement dated _____, 2017 (hereinafter, collectively referred to as the "**Lease**") for the purpose of installing, operating and maintaining a communications facility and other improvements at Landlord's real property located in the City of Paso Robles, County of San Luis Obispo, commonly known as 9000 E Highway 46. All of the foregoing is set forth in the Lease.

2. The term of the Lease commenced on September 1, 2011. The new initial term will be five (5) years ("**New Initial Term**") commencing on September 1, 2021, with three (3) successive five (5) year options to renew.

3. The portion of the land being leased to Tenant (the "**Premises**") is described in **Exhibit 1** annexed hereto.

4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall control. The Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Lease.

[SIGNATURES APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:	**TENANT:**
City of El Paso de Robles, a California municipal corporation	New Cingular Wireless PCS, LLC, a Delaware limited liability company By: AT&T Mobility Corporation Its: Manager
By: _____	By: _____
Name: _____	Name: James Stickney
Title: _____	Title: Director C+E
Date: _____	Date: 7/18/17

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

LANDLORD ACKNOWLEDGMENT

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

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ **(Seal)**

ACKNOWLEDGMENT

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

State of California
County of Orange)

On July 18, 2017 before me, Alma Pineda-Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

ALMA PINEDA
Notary Public - California
Orange County
Commission # 2189811
My Comm. Expires Apr 5, 2021

Signature Alma Pineda (Seal)

EXHIBIT 1

DESCRIPTION OF PREMISES
Page 1 of 1

to the Memorandum of Lease dated _____, 2017, by and between the City of El Paso de Robles, a California municipal corporation , as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Premises are a portion of the Property located at 9000 Highway 46, Paso de Robles, CA 93446 and legally described and/or depicted as follows:

THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 13, IN TOWNSHIP 26 SOUTH, RANGE 13 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEYOR GENERAL, EXCEPTING THEREFROM SUCH INTEREST AS WAS CONVEYED TO THE COUNTY OF SAN LUIS OBISPO. BY DEED DATED FEBRUARY 15, 1906 AND RECORDED APRIL 13, 1906 IN BOOK 69, PAGE 512 OF DEEDS.

LEASE
AND
WIRELESS TELECOMMUNICATIONS AGREEMENT

Between the

City of El Paso de Robles

And

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

LEASE
AND
WIRELESS TELECOMMUNICATIONS AGREEMENT

This Lease and Wireless Telecommunications Agreement (this "**Lease**") is made and entered as of the 1st day of September, 2011 (the "**Effective Date**"), by and between the City of El Paso de Robles, a California municipal corporation ("**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company ("**Tenant**"), who agree as follows:

ARTICLE 1. PROPERTY AND BACKGROUND.

1.01 The Site. Landlord is the owner of that certain property located at 9000 Highway 46, Paso Robles, California, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference (the "**Property**"). Tenant's predecessor-in-interest, SLO Cellular Inc., DBA Cellular One of San Luis Obispo, ("Cellular One") and Landlord previously were parties to an Option and Site Lease Agreement dated December 19, 1994 (the "**Original Lease**") pursuant to which Cellular One leased a portion of the Property (the "**Premises**") of approximately 1,600 square feet. Tenant has succeeded to all of the right, title and interest of Cellular One in and to the Original Lease. The parties have agreed to revise the terms and conditions upon which Tenant may occupy the Premises, and intend that this Lease supersede and replace in its entirety the Original Lease. The Premises are more particularly described or depicted in **Exhibit B**, attached hereto and incorporated herein by reference.

1.02 Wireless Telecommunications Facility. Tenant wishes to lease from Landlord, and Landlord wishes to lease to Tenant, the Premises for the purpose of installing, constructing, maintaining, repairing, replacing, operating, upgrading and removing ("**Work**") a wireless telecommunications facility, including, without limitation, one monopole tower of 120 feet in height along with related antenna equipment and fixtures and including the equipment buildings and structures, back up power systems and related improvements and fixtures of Tenant's sublessees and licensees (the "**Facility**") that will be fenced within an area consisting of approximately 1,600 square feet (the "**Premises**"). Cellular One previously obtained a Conditional Use Permit No. 00-008 on October 24, 2000, (the "**CUP**") a copy of which is attached hereto as **Exhibit C** and incorporated herein by reference, which only allows for nine (9) antennae to be placed on the tower. Tenant and Landlord acknowledge however, that there are currently fifteen (15) antennae installed on the tower, and that Tenant must apply for an amendment to the CUP to authorize the additional six (6) antennae to remain on the tower. Tenant agrees that it shall, within thirty (30) days of the date of this Lease, submit a complete application to amend the CUP to allow no more than a total of fifteen (15) antennae to be placed on the tower. Tenant agrees that it shall comply with any and all conditions that may be imposed as part of any approval of such amendment to the CUP (the "**Amended CUP**"). Nothing in this Lease shall be construed as a commitment by Landlord, as the City, to approve any proposed amendment to the CUP, which approval may be withheld or conditioned in City's sole discretion. Tenant's failure to submit an application to amend the CUP as set forth in this section 1.02 shall be deemed to be a

default. If the Amended CUP is approved, it shall be attached to this Lease as the "**Revised Exhibit C**", and all references to the CUP in this Lease shall refer to and mean the Amended CUP.

ARTICLE 2. TERM.

The term of this Lease (the "**Initial Term**") shall be five (5) years, plus any initial partial calendar month, commencing as of the Effective Date (the "**Commencement Date**"). Tenant shall have the right to renew this Lease for two (2) additional terms (each, a "**Renewal Term**", with the Initial Term and the Renewal Terms collectively referred to as, the "**Term**") of five (5) years each. Provided that Tenant is not then in material default under this Lease beyond any applicable notice, grace or cure periods provided therefor, and subject to the rent adjustment for the Renewal Term as set forth in Section 3.05 below, the Term will be automatically renewed for the Renewal Term, unless Tenant provides Landlord with written notice of Tenant's election not to renew this Lease at least sixty (60) days before the expiration of the Initial Term or first Renewal Term, as applicable. Each twelve (12) month anniversary of the Commencement Date during the Term shall be referred to as a "**Lease Year**".

ARTICLE 3. RENT.

3.01 Monthly Base Rent. Beginning on the Commencement Date and afterwards throughout the Initial Term, Tenant shall pay to Landlord, in advance on the first day of each and every calendar month and without demand, deduction, offset or abatement, a monthly rent ("**Rent**") as specified in this Lease. The initial Rent for the Initial Term will be Three Thousand Dollars ($3,000) per month and adjusted annually as provided in Section 3.04 hereof. The Rent during a Renewal Term shall be established as set forth in Section 3.05 hereof. The Rent for any partial calendar month shall be prorated appropriately, and for a partial calendar month at the beginning of the Term, the partial month's Rent shall be paid to Landlord within five days of the Commencement Date. To assist Tenant with Tenant's internal processing of the Lease, and only with respect to the first installment of Rent due under this Lease, Landlord hereby grants a one-time grace period of thirty (30) business days from the Effective Date for Tenant to deliver to Landlord the first installment of Rent due for the month of September 2011.

3.02 Net Lease. This Lease is a net lease, and Rent and other payments due and payable hereunder to or on behalf of Landlord shall be paid without notice or demand and without offset, counterclaim, abatement, suspension, deferment, deduction or defense.

3.03 Additional Rents. Any charge, fee or expense under this Lease expressly set forth herein, other than Rent, shall be deemed "**Additional Rent**". Any Additional Rent, excepting any Collocation Charge (as defined below in Section 5.07) or late charge (as set forth below in Section 3.06), shall be paid to Landlord within 20 business days of Tenant's receipt of an invoice, with supporting documentation, or as otherwise expressly set forth in this Lease. Any Collocation Charge shall be paid to Landlord in advance on the first day of each and every calendar month with the payment of Rent.

3.04 Annual Adjustment. The Rent shall be increased annually throughout the Initial Term as of the beginning of every Lease Year by an amount equal to four percent (4%) of the preceding Lease Year's Rent. Annual adjustments of Rent during a Renewal Term shall be determined when the Adjusted Base Rent for a Renewal Term is determined, as set forth in Section 3.05 below.

3.05 Adjusted Base Rent for Renewal Term(s). If Tenant has not provided Landlord with a written notice of its intent not to renew the Lease, Landlord shall conduct a survey to determine the fair market rent paid for the renewal of existing leases with comparable facilities and size in San Luis Obispo County, California, and provide written notice to Tenant, along with the results of the survey identifying the locations and facilities selected by Landlord, at least thirty (30) days prior to the expiration of the Initial Term or first Renewal Term, whichever is applicable, of the adjusted Rent (the "Adjusted Base Rent") for the Renewal Term, provided, however, that in no event shall the Adjusted Base Rent be less than the then-existing Base Rent, as adjusted under Section 3.04 (with respect to the Initial Term) or this Section 3.05 (with respect to the first Renewal Term) nor more than fifteen percent (15%) over the then-existing Base Rent, as adjusted under Section 3.04 (with respect to the Initial Term) or this Section 3.05 (with respect to the first Renewal Term). Following receipt of the survey, Tenant shall have the opportunity to meet and confer with Landlord and the parties shall use good faith efforts to agree upon the Adjusted Based Rent for the Renewal Term. In the event the parties cannot agree on the Adjusted Base Rent for such Renewal Term, the Lease shall terminate upon the expiration of the Initial Term or Renewal Term, whichever is applicable.

3.06 Late Charge. If Tenant fails to deliver to Landlord the Rent or Additional Rent within 10 days after such are due, Tenant shall pay Landlord a late payment charge equal to Five Percent (5%) of the overdue payment as liquidated damages, in lieu of actual damages. The parties agree that this late charge represents a fair and reasonable estimate of the costs landlord will incur by reason of Tenant's late payment. Landlord's acceptance of a late charge shall in no event constitute a waiver by Landlord of Tenant's default for the overdue payment, or prevent Landlord from exercising any of the other rights or remedies granted Landlord under this Lease, at law or in equity.

3.07 Interest. If any Rent or Additional Rent due under this Lease are not paid to Landlord within the timeframes set forth in Section 3.01 through Section 3.04 hereof, they shall commence to bear interest from thirty (30) days after the date due until fully paid at the lesser rate of (a) Ten Percent (10%) per annum or (b) the maximum rate permitted by law. Neither the accrual nor Tenant's payment of interest to Landlord shall be deemed to cure any default by Tenant under this Lease.

ARTICLE 4. CONSTRUCTION OF THE FACILITY

4.01 Conditional Use Permit and Government Approvals. Tenant has, but only to the extent permitted by Section 21.16.200D.2. of the Paso Robles Municipal Code or successor provision, and in the CUP, the right, during the Term, to perform the Work on the Facility and all improvements related thereto, on the Premises including, but not

limited to, wireless telecommunications transmitting and receiving equipment, generators, utility lines, transmission lines, wireless telecommunications transmitting and receiving antennas and supporting structures and improvements of Tenant and Tenant's sublessees and licensees, agents and contractors. In connection therewith, Tenant has the right to do all Work necessary to prepare, maintain, and alter the Premises for Tenant's communications operations. Tenant may place a security fence consisting of chain link construction or similar but comparable construction around the perimeter of the Premises. All improvements shall be at the expense of Tenant and Tenant's sublessees and licensees and the installation of all improvements shall be at the discretion and option of such parties, provided that such improvements, and all Work related thereto, is consistent and compliant with the terms of the CUP and Chapter 21.16 of the Paso Robles Municipal Code or its successor provision. Tenant will maintain the Premises in a good condition, reasonable wear and tear excepted. Landlord will maintain the Property, excluding the Premises, in good condition, reasonable wear and tear excepted.

4.02 Construction and Work.

(a) Specifications detailing the initial type, location and size of the Facility and specifically describing any proposed construction and Work ("**Scope of Work**") are set forth as described within the CUP and findings attached within **Exhibit C** attached hereto.

(b) Tenant's sublessees and licensees shall not install nor construct any equipment, additions, alterations or improvements to, upon, or within the Facility or the Premises without Landlord's prior written consent, which consent shall not be unreasonably conditioned, withheld or delayed; provided however, that all such installations and construction, and all equipment and improvements associated therewith, shall be at the sole expense of Tenant's sublessees and licensees and consistent with the CUP, Chapter 21.16 of the Paso Robles Municipal Code or its successor provision, and any additional requirements specifically provided therefor herein, including, but not limited to, Section 5.03 (the "**Sub-Tenant Work**"). Tenant shall submit to Landlord, in writing, the specifications for all Sub-Tenant Work including a site plan and construction drawings. Landlord shall have 15 business days from its receipt of such submission, and all resubmissions, (each a "**Review Period**") to review the specifications for the proposed Sub-Tenant Work to reasonably determine its compliance with the terms of this Section 5.02. If, within any effective Review Period, Landlord reasonably determines that the Sub-Tenant Work fails to comply with the terms of this Section 5.02, Landlord shall, within such Review Period, provide Tenant with written notice of the material deficiencies supporting Landlord's determination, and Tenant shall arrange for its affected sublessee or licensee to, if it so elects, perform any work necessary to correct the deficiencies described therein and provide to Tenant a revision of the specifications for the Sub-Tenant Work for Tenant's resubmission to Landlord. If, within any effective Review Period, Landlord reasonably determines that the Sub-Tenant Work is in compliance with the terms of this Section 5.02, Landlord shall, within such Review Period, give Tenant written approval and acceptance of the Sub-Tenant Work. If Landlord fails to deliver, within the period provided therefor, to Tenant any written notice required to be given by Landlord to Tenant under this Section 5.02, Landlord shall

be deemed to have approved the Sub-Tenant Work. Consistent with Section 14.01 of this Lease, the approval process pursuant to this Section 5.02 is separate from the regulatory approvals of the City.

(c) Tenant shall, and shall require its sublessees and licensees to: (i) perform all Work in substantial compliance with the Scope of Work or approved Sub-Tenant Work, as applicable, and in a neat, safe and workmanlike manner consistent with generally accepted construction standards and the reasonable requirements of Landlord and in compliance with all applicable building codes; (ii) notify Landlord of any construction Work and coordinate such Work in such a way as to minimize, to the extent reasonably practical, any interference with Landlord's operations of the Property; (iii) obtain, prior to the commencement of any Work, all necessary federal, state and municipal permits, licenses and approvals, including but not limited to a building permit for the installation of the improvements for the Facility, furnish copies thereof to Landlord prior to commencement of any Work; and perform all Work in compliance with the same and with all applicable laws, statutes, codes, ordinances, orders, rules, regulations and standards ("**Laws**"); (iv) obtain, and cause any and all contractors and subcontractors to obtain, prior to commencement of any Work, such insurance as Tenant may reasonably require; (v) not permit any mechanics' or materialmen's liens to be attached to the Property; and (vi) cooperate and comply with the existing easements for access, utilities, maintenance, installation and repair on the Property.

(d) In no event shall Landlord's approval of the plans and specifications attached as Exhibits to this Lease, the Sub-Tenant Work, or of any other plans or specifications, if any, be deemed a representation that the Facility will not cause interference with other equipment or systems on the Property or that the plans or specifications of Tenant and its sublessees or licensees comply with applicable Laws; responsibility for such compliance will remain with Tenant and its sublessees and licensees.

(e) Tenant shall, at its sole cost and expense, repair, including any surface of, the Premises or the Property that are damaged by or during the installation, operation, maintenance, repair or replacement of the Facility by Tenant, ordinary wear and tear excepted. If Tenant fails to repair or refinish any such damage, Landlord may, in its reasonable discretion, repair or refinish such damage and upon written notice by Landlord, Tenant shall reimburse Landlord, within thirty (30) business days of Tenant's receipt of such notice, accompanied by an invoice and reasonable substantiation of any such costs and expenses incurred by Landlord, for all reasonable costs and expenses incurred in such repair or refinishing.

(f) Tenant and its sublessees and licensees shall make no alterations, additions or improvements in or to the Premises not shown on **Exhibit C** or any Sub-Tenant Work duly approved hereunder (collectively, "**Alterations**"), without Landlord's prior written consent. Landlord may withhold its consent to such Alterations if the proposed Alterations would materially and adversely affect the structure or safety of the Property or any of its electrical, plumbing, mechanical or safety systems; in all other circumstances, Landlord agrees not to unreasonably condition, withhold or delay its

consent to proposed Alterations. Notwithstanding the foregoing, Tenant shall not be required to obtain Landlord's approval for any Alterations within any enclosed structure on the Property or for other Alterations which doe not materially and adversely affect the aesthetic appearance of the Facility approved under the CUP, when viewed by the general public from areas which are readily accessible to the general public and in the immediate vicinity of the Premises. For those alterations or improvements requiring Landlord's reasonable approval and not requiring any amendment to the CUP, in no event shall Landlord condition any such approval on any increase in Rent or any other direct or indirect costs or fees to Tenant under this Lease. Landlord's approval shall not be deemed approval by the City of Paso Robles as a regulatory matter; Tenant shall obtain all building permits or other City approvals required for any Alterations in addition to Landlord's approval pursuant to this Lease. Tenant agrees that there shall be no construction of any Alterations which will materially and adversely interfere with Landlord's free access to mechanical installations or service facilities serving the Property or the moving of Landlord's equipment to or from the enclosures containing said installations or facilities, unless Landlord provides, in its sole discretion, its prior written consent. Tenant covenants and agrees that all work related to any Alterations done by Tenant, its sublessees and licensees, or at any of their request shall be performed in full compliance with all applicable Laws, and in full compliance with the applicable rules, orders, directions, regulations and requirements of the Pacific Fire Rating Bureau, or of any similar body. Tenant shall not permit any mechanics' or materialmen's liens to be filed against the Premises or the Property of which the Premises is a part in connection with any such Work done by Tenant, its sublessees and licensees, or at any of their request. Neither Landlord's approval nor inspection of any Alterations shall be deemed a warranty as to the design, workmanship, quality or desirability of materials or the compliance of the Alterations with any Laws or governmental requirements.

(g) Before commencing any Work or Alterations, Tenant shall give Landlord at least five (5) days' prior written notice of the proposed commencement of such Work. Tenant further covenants and agrees that any mechanics' lien filed against the Property of which the Premises are a part, for work claimed to have been done for, or materials claimed to have been furnished to, Tenant or its sublessees and licensees will be discharged by Tenant, by bond or otherwise, within fifteen (15) business days after Tenant's receipt of Landlord's written notice of the filing thereof and Landlord's written demand for the removal of such mechanics' lien, at the sole cost and expense of Tenant.

(h) Tenant, and Tenant's sublessees and licensees, shall have the right, during the Term, at their expense, to install utilities (including, but not limited to the installation of emergency back-up power) on the Property at locations reasonably approved by Landlord, and to improve on the present utilities on the Property. Subject to Landlord's approval of the location of said utilities, which approval shall not unreasonably be conditioned, withheld or delayed, Tenant and Tenant's sublessees and licensees shall have the right, at their expense, to construct, install, improve, maintain, repair, replace and operate utilities on (or bring utilities across) the Property in order to service the Facility and their respective equipment and improvements on the Premises.

(i) Tenant, and Tenant's sublessees and licensees shall fully and promptly pay for all utilities furnished to the Premises for the use, operation and maintenance of the Facility. The Property has a separate meter to measure the electrical service to the Property. Landlord acknowledges that Tenant provides a communication service that requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If there is an interruption of power for an extended period of time, in Tenant's reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption.

ARTICLE 5. USE, OPERATION AND MAINTENANCE OF THE FACILITY.

5.01 Use. Tenant and Tenant's sublessees and licensees shall only use the Premises for installing, constructing, maintaining, repairing, replacing, operating and removing the Facility, at their sole cost and expense, for receiving and transmitting wireless telecommunications signals including, but not limited to cellular and PCS, and for such activities as may be related thereto. Tenant and Tenant's sublessees and licensees shall have access to the Facility for such purposes throughout the Term at all times, on foot or motor vehicle, including trucks, subject to the access provisions in Section 6.06 hereof.

5.02 Use Obligations. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, age, handicaps, sex, marital status, sexual orientation, ancestry, or national origin in the use, occupancy, tenure, or enjoyment of the Premises or the improvements thereon, or any part thereof, and Tenant itself, or any person claiming under or through it, shall not establish or permit any such practice of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants or vendees of the Premises or the improvements thereon, or any part thereof.

5.03 Use Prohibitions. Tenant agrees that in connection with the use and operation of the Premises and the Facility it will not:

(a) Except as expressly set forth in Section 5.07 below, sublease all or any portion of the Premises and improvements thereon, which sublease is not in accordance with the use of the Premises and Facility provided for herein and in the CUP, without the express written consent of Landlord which may be withheld at Landlord's sole and absolute discretion; or

(b) Except as authorized or contemplated herein, cause or permit substantial and obnoxious odors to emanate or be dispelled from the improvements; or

(c) Permit undue accumulations of garbage, trash, rubbish, or any other refuse; or

(d) Create, cause, maintain, or permit any nuisance (as defined under applicable law) in, on, or about the Premises; or

(e) Commit or suffer to be committed any waste (as defined under applicable law) in, on, or about the Premises; or

(f) Knowingly use or allow the Premises to be used for any unlawful purpose, or for any purpose which violates the terms of any recorded instrument which affects the Premises and which is senior in priority to this Lease; or

(g) Cause or permit any insurance coverage on the Premises or the improvements thereon to become void or voidable (unless Tenant has previously obtained replacement coverage in the same amounts) or make it impossible to obtain any required insurance at commercially feasible rates; or

(h) Violate the provisions of the CUP or any law, ordinance, or regulation applicable to the Premises and the improvements thereon.

5.04 Interference with Operation.

(a) Landlord, its employees, agents, tenants or occupants of the Property and contractors shall not adversely interfere with the operation of the Facility, including (without limitation) the frequency and "line of sight" requirements of the Facility. In such case, Landlord shall, upon receipt of written notice thereof from Tenant, immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. Landlord will not grant, after the date of this Lease, a lease, license or any other right to any third party for the use of the Property, if such use may in any way adversely affect or interfere with the Facility, the operations of Tenant or the rights of Tenant under this Agreement. Any such material and adverse interference to Tenant's operations shall be deemed a material default under this Lease and Landlord shall cause such interference to be corrected to the reasonable satisfaction of Tenant within twenty-four (24) hours after Landlord's receipt of notice of interference from Tenant. In the event such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected. If the interference cannot be corrected, Tenant may terminate this Lease due to an event of default as provided in Section 10.01 hereof and any other remedies available under Article 10.

(b) Tenant's operation of the Facility shall not materially and adversely interfere with the use or enjoyment of the Property by Landlord or tenants or licensees of Landlord or other tenants or occupants of the Property. If such material and adverse interference shall occur, Tenant shall, upon receipt of written notice thereof from Landlord, immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. Any such material and adverse interference to Landlord's operations at the Property shall be deemed a material default under this Lease and if such interference cannot be corrected by Tenant to the reasonable satisfaction of Landlord within the cure period set forth for such herein, Landlord may terminate this Lease due to an event of default as provided in Section 10.02(c) hereof, subject to the right of Tenant to commence to cure such default and diligently prosecute such cure to completion in the event that it cannot be cured within such cure period.

5.05 Maintenance. Tenant hereby covenants and agrees, at its sole cost and expense: (a) to keep and maintain the Facility in good and safe order and repair and proper operating condition at all times throughout the Term, and to promptly repair all damage to the Premises and the Property caused by Tenant, its agents, representatives, employees, contractors, or subcontractors to Landlord's reasonable satisfaction, ordinary wear and tear excepted; and (b) to comply with any and all federal, state and municipal Laws applicable to the Facility.

5.06 Access. Landlord hereby covenants and agrees to provide Tenant and Tenant's sublessees and licensees, agents and contractors access to the Property twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year for purposes of performing the Work on the Facility, subject to any reasonable rules, regulations and standards, and any modifications thereof, that are consistent with the terms of this Lease and are established and provided by Landlord in writing in advance to Tenant. Landlord grants to Tenant an easement for such access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such access at no additional cost of Tenant.

5.07 Subsequent Wireless Telecommunication Operators.

(a) Collocation. In the event Tenant seeks to amend the CUP to allow more than fifteen (15) antennae at the Facility, or to add another tower that would accommodate additional antennae or wireless broadband or broadband-equivalent telecommunication operators (more particularly defined in Section 5.07(b) below), or to divide, sublease, sublicense, apportion or otherwise piggyback or colocate any additional wireless telecommunication operators on the Facility or other parts of the Premises (each such event individually constituting a "**Broadband Collocation**") it shall have the right to do so without the consent of Landlord; provided however, that each Broadband Collocation is consistent with the CUP, as amended, and Tenant has obtained any approvals or permits required by the City of Paso Robles. Prior to any other wireless telecommunication use of the Facility that is not a Broadband Collocation (an "**Other Collocation**"), Tenant shall obtain the prior written consent of Landlord, which consent Landlord shall not unreasonably condition, delay or withhold. Additionally, Tenant shall deliver to Landlord within thirty (30) days of each Broadband Collocation or Other Collocation, a fully executed copy of the agreement evidencing such collocation, and throughout the Term of this Lease, any modifications or amendments thereto within thirty (30) days of execution. This Section 5.07 shall apply to each Broadband Collocation and proposed Other Collocation related to the Facility. Subject to the submittal by Tenant of the executed agreement with T-Mobile West Corporation, T-Mobile West Corporation shall be deemed the second (2nd) Broadband Collocation operator.

(b) Additional Rent for Collocation. Pursuant to the terms set forth herein, and beginning on the date that Tenant first receives Sublease Rent under any applicable agreement for Broadband Collocation or Other Collocation, Tenant shall pay to Landlord, as Additional Rent, the applicable percentage, as set forth in the schedule below (the "**Collocation Charge Percentage Rate**") of the Sublease Rent, as defined below (the "**Collocation Charge**"):

Order	Collocation Type	Collocation Charge Percentage Rate
2nd	Broadband Collocation	35%
3rd	Broadband Collocation	35%
4th and over	Broadband Collocation	35%
All	Other Collocation	35%

Broadband Collocation shall include the following communication services, as defined in CFR, Title 47, Chapter I – Federal Communications Commission (Part): Cellular Radiotelephone Service (Part 22); Personal Communications Services (Part 24); Broadband Radio Service and Wireless Communications Service (Part 27).

"**Sublease Rent**" shall mean the amount of all revenue actually received by Tenant in connection with a sublease of the Premises or other agreement conferring rights to another wireless carrier to connect equipment to the Facility, excepting, however, Sublease Rent shall exclude (i) any capital contributions or other compensation intended to reimburse Tenant for the cost of entitling, designing and constructing the Facility or other related components which are shared with Tenant's subtenant or other wireless provider using the Facility; (ii) all fees and charges for reimbursement o Tenant of any costs of utilities, taxes and other costs or assessments pertaining to the Premises or the Facility including, but not limited to, any compliance-related matters; and (iii) any reimbursements for maintenance, repair and/or replacement of the Facility, including, but not limited to any connections serving the Facility and any third party maintenance and repair agreements, including reserves for spare parts. Within thirty (30) days of receipt of Landlord's written request, Tenant shall provide reasonable substantiation to Landlord of any revenue retained by Tenant under clauses (i), (ii) and/or (iii) above. Tenant shall remit payment of any Sublease Rent no later than thirty (30) days following Tenant's actual receipt of any payment which constitutes Sublease Rent. Commencing on the first anniversary of the commencement of each Collocation Charge and annually thereafter on each anniversary date of each Collocation Charge, the amount Landlord receives as the Collocation Charge for each collocation for each month of the following year shall be increased to either: (i) if Tenant has not provided for an annual increase in the Sublease Rent it charges a wireless telecommunications operator under its collocation agreement with such operator, the amount determined by multiplying the Sublease Rent of such operator increased at the rate of four percent (4%) per year for the number of then current anniversary dates of the Collocation Charge attributable to such operator by the Collocation Charge Percentage Rate; or (ii) if Tenant has provided for an annual increase in the Sublease Rent it charges a wireless telecommunications operator under its collocation agreement with such operator, the amount determined by multiplying the then current Sublease Rent of such operator by the Collocation Charge Percentage Rate.

ARTICLE 6. OWNERSHIP OF FACILITY.

6.01 The Facility. The Facility, and all improvements and equipment associated therewith, shall remain the exclusive property of Tenant during the Term and Tenant shall have the right to replace or remove all or any portion of the Facility, and all improvements and equipment associated therewith, at any time during the Term. Landlord shall not be liable for damage, theft, misappropriation or loss of any of the

Facility, except to the extent such is the result of any negligent act or omission of Landlord or its employees, agents or contractors.

6.02 Equipment, Chattel, Trade Fixtures. All articles of personal property, including all chattel and business and trade fixtures, machinery, equipment and movable partitions owned by Tenant or its subtenants, and which where installed by Tenant or its subtenants at their expense on the Premises, shall remain the property of Tenant or its subtenants, respectively, and may be replaced or removed by Tenant or its subtenants at any time during the Term, and upon the expiration or sooner termination of, this Lease, or otherwise in accordance with the terms and conditions of this Lease. Tenant shall be responsible for the repair of any damage caused by such removal, except to the extent such is the result of any negligent act or omission of Landlord, its employees, tenants or occupants of the Property, and contractors, or their respective agents.

6.03 Tenant's Duty to Remove. At the expiration or sooner termination of the Term, Landlord may, at Landlord's election, demand the removal from the Premises of all fixtures and improvements, including without limitation the Facility, constructed or placed on the Premises by Tenant, or of certain fixtures or improvements or both, as specified in the notice provided for below. A demand to take effect at the normal expiration of the Initial Term or a Renewal Term, as applicable, shall be effected by written notice given by Landlord to Tenant within fifteen (15) days after Landlord's receipt of Tenant's notice of Tenant's election not to renew for a Renewal Term. A demand to take effect on any other termination of this Lease shall be effected by written notice given in or concurrently with written notice of such termination or within fifteen (15) days after such termination. Tenant shall comply with Landlord's notice within ninety (90) days after either: (x) the normal expiration of the Initial Term or the Renewal Term wherein a demand was duly effected in accordance with this Section 6.03 or, (y) for any other termination of this Lease, Tenant's receipt of Landlord's notice delivered in accordance with this Section 6.03. The cost of such removal shall be paid by Tenant. The duty imposed by this provision is limited to restoring the Premises, and those portions of the Property used in connection with the operation of the Facility by Tenant, to the same condition existing on the Commencement Date, reasonable wear and tear and casualty caused by Landlord excepted, including but not limited to, the duty to demolish and remove all foundations to a depth of one (1) foot below the ground level existing on the Commencement Date, fill all excavations, return the surface to grade and leave the Premises safe and free from debris and hazards; provided that, compliance with a demand for removal of less than all fixtures and improvements shall require Tenant to remedy only its willful and negligent injuries to the Premises, Property and remaining improvements or fixtures resulting from Tenant's satisfaction of said duty. The duty imposed by this Section 6.03 shall not include an obligation to remove underground utilities, access roads, and landscaping, if any, but shall survive the expiration or termination of this Lease and shall continue until the duty imposed by this Section 6.03 has been performed to the reasonable satisfaction of Landlord.

ARTICLE 7. TAXES AND ASSESSMENTS.

7.01 Personal Property Taxes. Tenant shall pay without abatement, deduction or offset all taxes, assessments, license fees, and other charges ("**taxes**") that are levied and assessed against Tenant's personal property installed or located in or on the Premises which become payable during the Term. Within thirty (30) days of Tenant's receipt of Landlord's written request, Tenant shall furnish Landlord with satisfactory evidence of these payments. Tenant shall make all such payments directly to the taxing authority.

7.02 Real Property Taxes. If real property taxes (including, if applicable, any possessory interest taxes), general and special taxes, and assessments ("**real property taxes**") are levied and assessed against:

(a) the Premises and Tenant's improvements on the Premises due to Tenant's possessory interest in the Premises. Tenant shall, semi-annually but not later than the taxing authority's delinquency date, pay, or cause to be paid, all real property taxes attributable to the Premises and Tenant's improvements on the Premises;

(b) the Property, Landlord shall notify Tenant each year of the real property taxes, and immediately on receipt of the tax bill, deliver to Tenant a copy of the tax bill. Provided that Landlord has timely delivered written notice to Tenant, Tenant shall, semi-annually but not later than the taxing authority's delinquency date, pay its *pro rata* portion of the real property taxes for the Property. Tenant's *pro rata* portion shall be calculated by multiplying the semi-annual real property taxes for the Property by a fraction, the numerator of which is the total square feet of the Premises and the denominator of which is the total square feet of the Property, including the Premises.

7.03 Tenant's Tax Liability Prorated. Tenant's liability to pay real property taxes and new assessments shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the Term at its inception and expiration or earlier termination in accordance with this Lease.

7.04 Revenue & Taxation Code Section 107.6. Possessory Interest Tax. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxes and that, if a possessory interest is created, Tenant shall, in accordance with Section 7.02 hereof, be responsible for payment of property taxes levied against such possessory interest.

7.05 Tax Contest. Tenant, at its cost, shall have the right at any time to seek a reduction in the assessed valuation of the Premises and the Property or to contest any real property taxes that are to be paid by Tenant. If Tenant seeks a reduction or contests the real property taxes, the failure on Tenant's part to pay the real property taxes shall not constitute a default so long as Tenant complies with the provisions of this Section.

Landlord shall not be required to join in any proceeding or contest brought by Tenant unless the provisions of any law require that the proceeding or contest be brought by or in the name of Landlord or any owner of the Property. In that case Landlord shall join in the proceeding or contest or permit it to be brought in Landlord's

name so long as Landlord is not required to bear any cost. Tenant, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered, together with all reasonable costs, charges, interest, and penalties incidental to the decision or judgment. Provided that Landlord has delivered timely written notice to Tenant of Tenant's tax obligations in accordance with Section 7.02 hereof, in the event Tenant does not pay the real property taxes when due and Tenant seeks a reduction or contests them as provided in this Section, before the commencement of the proceeding or contest, Tenant shall furnish to Landlord a surety bond issued by an insurance company qualified to do business in California. The amount of the bond shall equal one hundred ten percent (110%) of the total amount of real property taxes in dispute. The bond shall hold Landlord and the Property harmless from any damage arising out of the proceeding or contest and shall insure the payment of any judgment that may be rendered.

ARTICLE 8. INSURANCE AND INDEMNITY.

8.01 Indemnity. Tenant agrees to protect, defend, and does hereby indemnify and hold Landlord harmless from any and all injury, loss, demands, liability, claims, actions, and damages to any person or property (including reasonable attorneys' fees) arising out of or connected with the use or occupancy of the Premises by Tenant, and the negligent or intentional acts or omissions of Tenant's employees, agents or contractors in and upon the Premises, other than those attributable (and then to the extent attributable) to the negligence or willful misconduct of Landlord or Landlord's agents and their employees.

Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees) arising directly from the actions or failure to act of Landlord, its employees or agents, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

8.02 Insurance.

(a) General. Without limiting Tenant's indemnification of Landlord, Tenant shall provide and maintain at its own expense during the Term the programs of insurance described below, covering its operations hereunder. Such insurance shall be provided by insurer(s) rated at least A-VII by AM Best and evidence of such programs reasonably satisfactory to Landlord shall be delivered to Landlord within 10 days after the mutual execution of this Lease. Such evidence shall specifically identify this Lease and shall contain express conditions that prior notice of cancellation be given to each certificate holder in accordance with policy provisions.

(b) Specific Insurance Required.

(i) Tenant shall maintain property in the amount of 100% of the replacement cost of Tenant's equipment and the Facility which Tenant may self-

insure. Tenant shall also maintain liability insurance, with a limit of $2,000,000 per occurrence and in the aggregate. Such liability insurance shall be written on an occurrence, and not a claims made, basis. Tenant shall also provide and maintain in force workers' compensation insurance with statutory limits and employer's liability insurance with limits of $1,000,000 per occurrence. Tenant shall also provide Automobile Liability with a combined single limit of $1,000,000 per accident. All insurance required to be carried by Tenant shall be primary to, and not contributory with, any similar insurance carried by Landlord. Landlord's insurance shall be considered excess insurance only.

(ii) Any policy or policies of workers' compensation, fire, extended coverage or similar casualty insurance, which either party obtains in connection with the Premises, the Property or the Facility shall include a clause or endorsement denying the insurer any rights of subrogation against the other party to the extent rights have been waived by the insured prior to the occurrence of injury or loss.

8.03 Review. The liability insurance requirements may be reviewed by Landlord and Tenant every five years for the purpose of mutually increasing (in consultation with their respective insurance advisors) the minimum limits of such insurance. Such minimum limits shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards. If the parties are unable to mutually agree upon such new limits within 30 days of a written demand by one party upon the other, the determination of an independent insurance advisor selected by the parties' insurance advisors shall be binding upon the parties.

8.04 Proof of Coverage. All policies required hereunder shall be with companies having a Best's rating of not less than A-VII (and if Best's no longer exists, an equivalent rating). Certificates of insurance shall be delivered to Landlord. Required liability policies shall name Landlord as an additional insured as respects this Lease Agreement. As often as any such policies shall expire or terminate, renewal or additional policies shall be procured and maintained in like manner and to like extent.

Nothing in this **Article 8** shall prevent Tenant from carrying insurance of the kind required of Tenant under a blanket insurance policy or policies which cover other properties owned or operated by Tenant. Tenant shall provide Landlord with certificates of insurance naming Landlord as an additional insured and setting forth the required coverage.

8.05 Environmental Indemnity.

(a) Indemnity by Tenant. Tenant agrees, from and after the Commencement Date, to defend, indemnify, protect, and hold harmless Landlord and its officers, beneficiaries, employees, agents, attorneys, representatives, legal successors, volunteers, and assigns ("**Landlord Indemnitees**") from, regarding, and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions (as defined herein), claims, losses, damages, fines, penalties, expenses, Environmental Response Costs (as defined herein), and reasonable costs of any kind or nature whatsoever, together with reasonable fees (including, without

limitation, reasonable attorneys' fees and experts' and consultants' fees), resulting directly from or in direct connection with the actual generation, storage, handling, transportation, use, presence, placement, migration, and/or release of Hazardous Materials (as defined herein) associated with the use or occupancy of the Premises by Tenant, at, on, in, beneath, or from the Premises and occurring during the Term (sometimes herein collectively referred to as "**Contamination**"), except to the extent caused by Landlord or its agents, contractors, or employees during Landlord's ownership of the Premises prior to the Commencement Date or caused by Landlord or its agents, contractors, or employees during the Term. Tenant's defense, indemnification, protection, and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim, or demand regarding the Contamination, at Tenant's sole cost.

(b) Indemnity by Landlord. Landlord agrees, from and after the Commencement Date, to defend, indemnify, protect, and hold harmless Tenant and its officers, beneficiaries, employees, agents, attorneys, representatives, legal successors, and assigns ("**Tenant Indemnitees**") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions, claims, losses, damages, fines, penalties, member expenses, Environmental Response Costs, and reasonable costs of any kind or nature whatsoever, together with reasonable fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials, at, on, in, beneath, or from the Premises or adjacent properties during Landlord's ownership of the Premises prior to the Commencement Date or caused by Landlord or its agents, contractors, or employees during the Term, (sometimes herein collectively referred to as "**Other Contamination**"). Landlord's defense, indemnification, protection, and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim, or demand regarding the Other Contamination, at Landlord's sole cost. In any legal action, claim, or investigation in which Landlord asserts that it does not have an obligation to defend or indemnify Tenant because Landlord did not own the Premises at the time contamination occurred, the burden of proof shall be on Landlord to demonstrate that the contamination occurred during the time Landlord did not own the Premises.

(c) Definitions.

(i) As used in this Lease, the term "**Environmental Response Actions**" means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state, or federal governmental or private party claims, including any claims by Tenant.

(ii) As used in this Lease, the term "**Environmental Response Costs**" means any and all costs associated with Environmental Response Actions including, without limitation, any and all fines, penalties and damages.

(iii) As used in this Lease, the term "**Hazardous Materials**" means any substance, material, or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) petroleum or petroleum products; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. section 1251 et seq. (33 U.S.C.§ 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317); (7) defined as a "hazardous substance" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq. (42 U.S.C. § 6903) or its implementing regulations; (8) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. section 9601 et seq. (42 U.S.C. § 9601); or (9) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

(d) Materiality. The parties acknowledge and agree that the defense, indemnification, protection, and hold harmless obligations of each for the benefit of the other set forth in this Lease are a material element of the consideration to each party for the performance of their obligations under this Lease, and that the parties would not have entered into this Lease unless each parties' obligations were as provided for herein.

(e) Landlord Environmental Representation. Landlord represents and warrants, that, to the best of its knowledge (i) the Premises, as of the date of the Original Lease, was free of hazardous substances, including awsbestos-containing materials and lead paint, and (ii) the Premises has not been subject to any contamination or hazardous conditions resulting in any environmental investigations, inquiry or remediation by any county, state or federal regulatory agency with jurisdiction over such matters.

(f) Tenant Termination Right. In the event Tenant becomes aware of any hazardous materials on the Property that were not placed on the Property by Tenant, or any environmental, health or safety condition or matter relating to the Property that, in Tenant's sole determination, renders the condition of the Property unsuitable for Tenant's use, or it Tenant reasonably believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Lease upon written notice to Landlord. If Tenant terminates the Lease under this subparagraph (f), Tenant shall provide Landlord with reasonable substantiation of any such hazardous materials, environmental, health or safety condition or exposure to risk.

ARTICLE 9. TRANSFERS.

9.01 Assignment by Tenant. Tenant shall not in any way assign this Lease without the prior written consent of Landlord, which consent shall not be unreasonably conditioned, withheld or delayed. For purposes of this Section 9.01, the terms "**assign**" and "**assignment**" shall be deemed to include changes in control of Tenant. If Landlord consents to any assignment, that consent shall not constitute a waiver of any of the restrictions of this Section 9.01 and the same shall apply to each successive proposed assignment related to this Lease. In no event shall Landlord's consent to an assignment affect the continuing duties and obligations of the Tenant under this Lease. Any assignment in violation of the terms of this Section 9.01, whether voluntary or involuntary, by operation of law, under legal process or proceedings, shall, at Landlord's option in its sole and absolute discretion, be voidable and shall be deemed to constitute a default under this Lease. If Landlord shall consent to assignment, that assignment shall not be effective until the assignee shall execute, acknowledge and deliver to Landlord an agreement, in form and substance reasonably satisfactory to Landlord, whereby the assignee shall assume all of the obligations of Tenant under this Lease and the assignee shall agree that the provisions contained in this Lease shall, notwithstanding that assignment, continue to be binding upon that assignee with respect to all future proposed assignments. The assignment shall be duly executed, and a fully executed copy thereof shall be delivered to Landlord.

9.02 Permitted Transfers. Notwithstanding the provisions of Section 9.01 hereof, Tenant shall have the right, without Landlord's consent, to assign this Lease to any corporation or entity that is:

(a) Tenant's parent entity, or any person or entity that (directly or indirectly) controls, is controlled by, or is under common control with Tenant. "Control" means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise;

(b) A wholly-owned subsidiary of Tenant;

(c) The surviving entity of any merger or consolidation of Tenant; and/or

(d) The purchaser in one transaction of all or substantially all of Tenant's assets and/or outstanding ownership interest; provided, however, that: (i) Tenant shall promptly notify Landlord of any such transaction; and (ii) no such transaction shall relieve Tenant of its continuing duties and obligations under this Lease.

9.03 Transfer by Landlord. Provided said assignee will assume, recognized and also become responsible to Tenant for the performance of all of the terms and conditions to be performed by such party under this Lease, Landlord shall have the right to freely assign, encumber, sell, lease or otherwise enter into transactions involving the Property, or any portion thereof, and to assign Landlord's rights and obligations under this Lease.

Upon any conveyance of the Property (or any portion thereof) or an assignment by Landlord of this Lease, Landlord shall be entirely released from all liability under any and all of its covenants and obligations contained in or derived from this Lease, excepting any and all liabilities, duties and obligations of Landlord that arose prior to such conveyance or assignment. Tenant agrees to attorn to any transferee individual or entity purchasing or otherwise acquiring Landlord's interest in the Premises, and to recognize such party as the landlord under this Lease, under the terms and conditions set forth herein. Notwithstanding the foregoing, Landlord shall not separately assign, sell, or otherwise transfer its rights to receive Rent or other income under this Lease independent of the assignment, sale or other transfer of its rights under this Lease.

ARTICLE 10. TERMINATION RIGHTS, DEFAULTS AND REMEDIES.

10.01 Tenant's Right to Terminate.

(a) On Landlord's Default. Tenant may terminate this Lease or pursue any other remedies available to Tenant at law or in equity upon written notice to Landlord if Landlord (i) fails to provide access to the Premises or to cure an interference problem within twenty-four (24) hours after receipt of written notice of such problem; or (ii) fails to observe or perform any of the express covenants or provisions of this Lease to be observed or performed by Landlord, which default shall not have been cured within thirty (30) days after Landlord receives written notice specifying such default from Tenant; provided, however, that if such default cannot be reasonably cured within such thirty (30) day period, Landlord shall have such additional period of time as is reasonably necessary to cure such default so long as Landlord has commenced and diligently pursues cure of such default.

(b) In Other Circumstances. Without limiting Tenant's other rights or remedies under this Lease or applicable Law, provided Tenant is not in breach or default under this Lease, Tenant shall have the right to terminate this Lease upon not less than thirty (30) days' prior written notice to Landlord if any of the following events occur: (i) if Tenant reasonably and in good faith determines that the physical condition of the Premises is not appropriate for its operations for economic, technological or environmental reasons; (ii) the Facility, including operations thereof, become subject to material and adverse interference which cannot be corrected within a reasonable time following written notice to Landlord and the party whose operations or equipment is causing the interference; or (iii) any consent, permit, license or variance required for the operations of Tenant on the Property is not obtained, expires, or is revoked; or (iv) upon written notice to Landlord upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Lease by Tenant under any one or more of Sections 5.04(a), 8.05(f), 10.01(a), 10.01(b)(ii), 12.01 or 12.02 of this Lease.

10.02 Tenant's Defaults. The occurrence of any one or more of the following events shall constitute a default under this Lease by Tenant:

(a) The failure by Tenant to make any payment of Rent, or any other payment required to be made by Tenant hereunder, within thirty (30) days after Tenant's receipt of written notice from Landlord that any such payment is overdue.

(b) Tenant assigns (whether or not such assignment is deemed to be effective) this Lease, or sells, transfers conveys, assigns or leases the whole or any part of the Premises or any improvement constructed thereon in violation of this Lease.

(c) The failure by Tenant to observe or perform any of the express covenants or provisions of this Lease to be observed or performed by Tenant, other than as specified in Sections 10.02(a), or (b) hereof, where such failure shall continue for a period of thirty (30) days after Tenant's receipt of written notice thereof from Landlord to Tenant, unless the failure cannot be reasonably cured within such thirty (30) day period, and Tenant shall have commenced the cure of such failure within such thirty (30) day period and is pursuing such cure with reasonable diligence. A reasonable delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. Notwithstanding the foregoing, if Landlord notifies Tenant in writing that a particular failure creates imminent and serious threat to persons or property, Landlord shall have the right, but not the obligation, to undertake such curative measures on behalf of Tenant as Landlord deems necessary to eliminate such imminent and serious threat, and Tenant shall reimburse Landlord for the cost of such curative measures within thirty (30) days of receipt of landlord's invoice accompanied by reasonable substantiation of the costs so incurred.

(d) (i) The making by Tenant of any general assignment for the benefit of creditors; (ii) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease, where possession is not restored to Tenant within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease where such seizure is not discharged within 30 days.

10.03 Landlord's Right to Terminate. If any such default by Tenant not cured within the applicable cure periods set forth herein, in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder. If Landlord shall elect to so terminate this Lease then Landlord may recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including, but not limited to, all amounts necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom (such as, but not limited to, reasonable attorneys' fees, costs of alterations and repairs, recording fees and filing fees). Efforts by Landlord to mitigate damages caused by Tenant's default shall not waive Landlord's right to recover damages under this Section 10.03.

10.04 Right to Cure Default. The non-defaulting party, at any time after the defaulting party commits a default which the defaulting party has failed to cure within the time established therefor, may cure the default at the defaulting party's cost. If the non-defaulting party at any time, by reason of the defaulting party's default, pays any reasonable sum, such sum paid by the non-defaulting party shall be due within thirty (30) days from the defaulting party to the non-defaulting party upon the defaulting party's receipt of written notice thereof from the non-defaulting party, and if paid at a later date, shall bear interest at the maximum rate permitted under Section 1(2) of Article XV of the California Constitution from the date the sum is paid by the non-defaulting party until such party is reimbursed by the defaulting party. With respect to Landlord such sum, together with interest on it, shall be Additional Rent.

10.05 Remedies Cumulative. All rights, options and remedies of the parties contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and each party shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. No waiver of any default hereunder shall be implied from any acceptance of any payment due hereunder or any omission by the non-defaulting party to take any action on account of such default if such default persists or is repeated. Any such waiver must be in writing, and such express waiver shall not affect defaults other than as specified in the waiver. The consent or approval to or of any act requiring the non-defaulting party's consent or approval shall not be deemed to waive or render unnecessary such party's consent or approval to or of any subsequent similar acts by the defaulting party.

ARTICLE 11. MORTGAGEE PROTECTION.

11.01 Subordination. At the election of Landlord or any first mortgagee with a lien on the Property, Tenant agrees that this Lease shall be subject and subordinate at all times to such lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Property, or Landlord's interest or estate in the Property is specified as security; provided, however, every mortgage or security interest or otherwise shall, if any foreclosure or any conveyance under any security device or in lieu of foreclosure, recognize, in writing, in form and substance reasonably acceptable to Tenant, the validity of this Lease and Tenant's rights to remain in occupancy and use of and have access to the Premises created thereunder, and shall not disturb Tenant's possession of the Property nor increase Tenant's obligations under this Lease nor diminish Tenant's rights thereunder, so long as Tenant is not in material default of this Lease beyond any applicable cure periods provided therefor. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such liens to this Lease in exchange for a valid non-disturbance agreement, recordable and in a commercially reasonable form. If any mortgage, deed of trust or other security device is foreclosed or any conveyance in lieu of foreclosure under any security device is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the tenant of the successor-in-interest to Landlord, and recognize such party as the landlord under this Lease, under the terms and conditions set forth herein. If the Property is, upon the Effective Date or becomes at any time thereafter during the Term,

covered by a mortgage or other security interest. Landlord shall immediately after the Effective Date, and upon such subsequent dates of encumbrance thereafter, obtain and furnish to Tenant, a non-disturbance agreement for each such mortgage or security interest, recordable and in form and substance reasonably acceptable to Tenant.

11.02 Waiver of Landlord's Lien. Landlord acknowledges that Tenant has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of Tenant's interest in the Premises, including the Facility (the "**Collateral**"), with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Landlord: (i) waives any lien rights it may have concerning the Collateral; and (ii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment or distress for any payments due or to become due to Landlord from Tenant under this Lease.

11.03 Estoppel Certificates. The responding party shall, within thirty (30) days following its receipt of written request by the requesting party, execute and deliver to the requesting party an estoppel certificate, in a commercially reasonable form submitted to it by the requesting party, certifying that this Lease is unmodified and in full force and effect or, if this Lease has been modified, attaching a copy of the modification and certifying that this Lease, as so modified, is in full force and effect and the date to which Rent and other payments due under this Lease are paid in advance, if any; acknowledging that there are not, to the best of the responding party's knowledge, any uncured defaults on the part of the requesting party or stating the nature of any uncured defaults; certifying the current Rent; and certifying to such other information as the requesting party may reasonably request pertaining to the status of this Lease.

ARTICLE 12. TERMINATION IN THE EVENT OF CASUALTY OR CONDEMNATION.

12.01 Casualty. If any damage to or destruction of the Premises or the Property, or any lesser portions thereof, or of the Facility located thereon and any improvements associated therewith, which, in Tenant's reasonable opinion, renders the Facility or the Premises unusable or inoperable or renders Tenant's continued use thereof impracticable, Tenant shall have the right, but not the obligation, to terminate this Lease by giving written notice to Landlord within thirty (30) days after such damage or destruction. If Tenant elects to terminate this Lease, Tenant shall, within a reasonable period after such termination, remove the damaged Facility thereon and any improvements associated therewith in accordance with the terms of this Lease. If Tenant elects to not so terminate this Lease, Tenant shall, within a reasonable period, make suitable repairs to the Facility, the Premises and any improvements serving the Premises necessitated by any such damage or destruction to the extent and only upon the receipt of any associated insurance proceeds and shall be entitled to use any and all such insurance proceeds to pay for such repairs. In no event shall Tenant be obligated to repair any casualty or other damage or destruction to the Facility and/or the Premises, whether or not covered by Tenant's casualty insurance, if any.

12.02 Condemnation. If a condemning authority takes all or a portion of the Premises or the Property, which in Tenant's reasonable opinion is sufficient to render the Premises unsuitable for Tenant's intended purpose under this Lease, then Tenant shall have the right to terminate this Lease, and in such event, this Lease shall terminate as of the date when possession is delivered to the condemning authority. All condemnation proceeds attributable to Tenant's leasehold interest, the Premises, the Facility and any improvements serving the Premises, shall belong solely to Tenant. Provided that Landlord's award for the Property and the Premises is not decreased by such action, Tenant may separately claim against the condemning authority for just compensation for the value of Tenant's moving expenses, prepaid Rent, business dislocation expenses and other losses or expenses as may be incurred. Sale of all or part of the Property by Landlord to a purchaser with the power of eminent domain, in the face of the exercise of its power of eminent domain, shall be treated as a taking by a condemning authority.

ARTICLE 13. MISCELLANEOUS.

13.01 City as Landlord. The City of Paso Robles will exercise its regulatory and other municipal powers without regard to the fact that the City is the landlord under this Lease. Accordingly, the execution of this Lease and approval of any matters by Landlord shall not be deemed approval by the City in its municipal capacity, including issuance of building permits and other matters.

13.02 Holding Over. If Tenant shall hold over the Premises after the expiration of the Term with the consent of Landlord, either express or implied, such holding over shall be construed to be only a tenancy from month to month, subject to all the covenants, conditions, and obligations contained in this Lease. Tenant hereby agrees to pay to Landlord as Rent such Rent in effect at the expiration of the Term, together with one-twelfth of the other monetary sums (such as taxes, insurance, etc.) which are Tenant's obligations to pay under this Lease.

13.03 Attorneys' Fees. If any action or arbitration is brought by either party hereto as against the other party hereto for the enforcement or declaration of any rights or remedies in or under this Lease or for the breach of any covenant or condition of this Lease, then and in that event the prevailing party shall be entitled to recover, and the other party agrees to pay, all reasonable fees and costs to be fixed by the court or arbitrator therein including, but not limited to, reasonable attorneys' fees.

13.04 Quiet Possession. Landlord agrees that Tenant, so long as Tenant is not in default after notice and time to cure under this Lease, shall quietly have, hold and enjoy the Premises throughout the Term without interruption or disturbance from Landlord or any other persons claiming by, through or under Landlord; and Landlord warrants to Tenant that as of the Commencement Date, there were no existing tenancies on the Premises.

13.05 Notices.

(a) "**Notice**" means any notice, demand, request, or other communication or document to be provided under this Lease to a party to this Lease.

(b) The Notice shall be in writing and shall be given to the party at its address set forth below or such other address as the party may later specify for that purpose by Notice to the other party. Each Notice shall, for all purposes, be deemed given and received (i) by hand-delivery to a party against receipted copy; (ii) by a nationally-recognized and reputable overnight delivery service; or (iii) by certified or registered mail, return receipt requested, postage prepaid; such notice to be effective when properly sent and received, refused or returned undelivered:

To Landlord:
City of Paso Robles
Attn: Director of Administrative Services
821 Pine Street, Suite A
Paso Robles, CA 93446

With a copy to:
Iris P. Yang
Best Best & Krieger LLP
400 Capitol Mall, Suite 1650
Sacramento, CA 95814

To Tenant:
New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: SLGO7
Cell Site Name: Paso Landfill (CA)
Fixed Asset No.: 10548038
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a required copy sent to AT&T Legal Department at:

<u>If sent via registered or certified mail to</u>:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #: SLG07
Cell Site Name: Paso Landfill (CA)
Fixed Asset No.: 10548038
P. O. Box 97061
Redmond, WA 98073-9761

If sent via nationally-recognized overnight courier to:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #: SLG07
Cell Site Name: Paso Landfill (CA)
Fixed Asset No.: 10548038
16331 NE 72nd Way
Redmond, WA 98052-7827

(c) The provisions above governing the date on which a Notice is deemed to have been received by a party to this Lease shall mean and refer to the date on which a party to this Lease, and not its counsel or other recipient to which a copy of the Notice may be sent, is deemed to have received the Notice.

(d) If Notice is tendered under the provisions of this Lease and is refused by the intended recipient of the Notice, the Notice shall nonetheless be considered to have been given and shall be effective as of the date provided in this Lease.

Either party hereto may from time to time by written notice to the other party designate a different address which shall be substituted for the one above specified. Notices shall be effective when received. Notices or other documents sent by personal delivery shall be deemed received on the date of such delivery.

13.06 Waiver. No waiver of any breach of any of the terms, covenants, agreements, restrictions, or conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or other terms, covenants, agreements, restrictions, and conditions hereof.

13.07 Binding. Subject to the restrictions set forth herein regarding assignment of the leasehold estate, each of the terms, covenants, and conditions of this Lease shall extend to and be binding on and shall inure to the benefit of not only Landlord and Tenant, but to each of their respective heirs, administrators, executors, successors, and assigns. Whenever in this Lease reference is made to either Landlord or Tenant, the reference shall be deemed to include, wherever applicable, the heirs, administrators, executors, successors, and assigns of such parties, the same as if in every case expressed.

13.08 Landlord's Right to Enter the Premises. Landlord and its authorized representatives shall have the right to enter the Premises at all reasonable times, after giving Tenant three (3) business days prior written notice, for any of the following purposes: (a) to determine whether the Premises is in good condition and whether Tenant is complying with its obligations under this Lease; and (b) to do any necessary maintenance and to make any restoration to the Premises that Landlord has the right or obligation to perform and to do any act or thing necessary for the safety or preservation of the Premises if any excavation or other construction is undertaken or is about to be

undertaken on any adjacent property or nearby street. Notwithstanding the foregoing, in the event of a bona fide emergency, Landlord may enter the Premises for the foregoing purposes without giving Tenant prior written notice; provided, however, that in such event, Landlord shall use reasonable efforts to provide notice to Tenant.

Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises as provided in this Section other than those caused by Landlord's or its agents or contractors negligence or willful misconduct.

Tenant shall not be entitled to an abatement or reduction of Rent if Landlord exercises any rights reserved in this Section; provided however, that Landlord's exercising of such rights does not materially affect Tenant's rights under this Lease.

13.09 Disclaimer of Partnership. The relationship of the parties hereto is that of Landlord and Tenant, and it is expressly understood and agreed that Landlord does not in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant's business or otherwise.

13.10 Memorandum of Lease; Quitclaim. For purposes of providing constructive notice hereof, Landlord and Tenant hereby agree to execute a Memorandum of Lease in substantially the form attached hereto as **Exhibit D** and incorporated herein by reference, and Tenant shall, at its sole expense, have the same recorded in the Official Records of San Luis Obispo. At the expiration or earlier termination of this Lease, Tenant shall execute, acknowledge, and deliver to Landlord within thirty (30) days after receipt of written request from Landlord to Tenant, any quitclaim deed or other document, in form reasonably acceptable to Tenant, required by any reputable title company to remove the cloud of this Lease from the real property subject to this Lease.

13.11 Interpretation. The titles to the Sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.

13.12 Covenants and Conditions. Each term and each provision, including, without limitation, the obligation for the payment of Rent, to be performed by Tenant or Landlord, as the case may be, shall be construed to be both a covenant and a condition of this Lease.

13.13 Force Majeure. If performance by a party of any portion of this Lease is made impossible by any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of God; inability to obtain services, labor, or materials or reasonable substitutes for those items; government actions; civil commotions; fire or other casualty; or other causes beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay, or stoppage is excused. Tenant's obligation to pay Rent, however, is not excused by this Section 13.14.

13.14 Integration. This Lease and the exhibits and documents incorporated by reference, constitutes the entire agreement between the parties and there are no conditions, representations, or agreements regarding the matters covered by this Lease which are not expressed herein.

13.15 Modification. This Lease shall not be varied or modified in any way, except by an instrument in writing, executed by the parties hereto.

13.16 Mutual Consent. Wherever in this Lease the consent or approval of Landlord and/or Tenant is required, it is agreed that such consent or approval shall not be unreasonably withheld, conditioned or delayed, unless otherwise specified herein.

13.17 Governing Law. This Lease shall be governed by and construed according to the laws of the State of California applicable to agreements made and entirely performed therein. Venue in any action on this Agreement shall be in the courts of San Luis Obispo County, California.

13.18 Executing Authority. The parties hereto have full power and authority to enter into this Lease and complete their respective responsibilities and duties contemplated by this Lease.

13.19 Time. Time is of the essence with respect to each and every term and condition of this Lease.

13.20 Landlord Warranties. Landlord represents, warrants and agrees that (i) Landlord solely owns the Property in fee simple, or controls the Property; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases or any other agreements of record or not of record which would adversely affect Tenant's Work and enjoyment of the Premises under this Lease; and (iii) Landlord's execution and performance of its obligations under this Lease will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord.

13.21 Termination of Original Lease. As of the Effective Date, the Original Lease is hereby terminated and of no further force or effect, without the necessity of a further writing exchanged between Landlord and Tenant. Neither Landlord nor Tenant shall have any further rights or remedies under the Original Lease. All obligations of each party under the Original Lease are deemed to have been fully performed and discharged, and each party hereby fully releases the other form all claims thereunder to the maximum extent permitted under applicable laws.

[signatures on following page]

TENANT:
New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

Dated: August 12, 2011

By: _____
Name: JAMES STICKNEY
Title: DIRECTOR CWE

LANDLORD:
City of El Paso de Robles,
a California municipal corporation

Dated: August 22, 2011

By: _____
Name: James L. App
Title: City Manager

Dated: Aug. 22, 2011, 2011

Attest: _____
Deputy City Clerk

APPROVED AS TO FORM:

By: _____
Iris P. Yang
City Attorney

[NOTARY ACKNOWLEDGMENTS APPEAR ON FOLLOWING PAGE]

LANDLORD ACKNOWLEDGMENT

State of California

County of San Luis Obispo

On August 22, 2011 before me, LISA SIMPSON, NOTARY PUBLIC,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Lisa Simpson

LISA SIMPSON
Commission # 1882791
Notary Public - California
San Luis Obispo County
My Comm. Expires Jul 13, 2014

(Seal)

TENANT ACKNOWLEDGMENT

State of California

County of LOS ANGELES

On AUGUST 12, 2011 before me CHRISTINA M WAGER, NOTARY PUBLIC,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature

CHRISTINA M. WAGER
Commission # 1842203
Notary Public - California
Orange County
My Comm. Expires Mar 27, 2013

(Seal)

EXHIBIT A

PROPERTY DESCRIPTION

The land described herein is situated in the State of California, County of San Luis Obispo, City of Paso Robles, and is described as follows:

THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 13, IN TOWNSHIP 26 SOUTH, RANGE 13 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEYOR GENERAL, EXCEPTING THEREFROM SUCH INTEREST AS WAS CONVEYED TO THE COUNTY OF SAN LUIS OBISPO, BY DEED DATED FEBRUARY 15, 1906 AND RECORDED APRIL 13, 1906 IN BOOK 69, PAGE 512 OF DEEDS.

EXHIBIT B

Map of the Premises

Notes:

1. This Exhibit may be replaced by a land survey and/or construction drawing of the Facility on the Premises once received by Tenant.
2. Any setback of the Facility from the Premises boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.

AT&T

SITE NUMBER: SLG07
SITE NAME: PASO ROBLES LANDFILL
SITE TYPE: RAW LAND

CITY: PASO ROBLES
COUNTY SAN LUIS OBISPO
JURISDICTION: PASO ROBLES

PROJECT SUMMARY

Site Address

Landlord

Assessor's Parcel Number

Project Description

Zoning Data

Geodetic Coordinate

PROJECT TEAM

Architect

Applicant

Applicant Representative

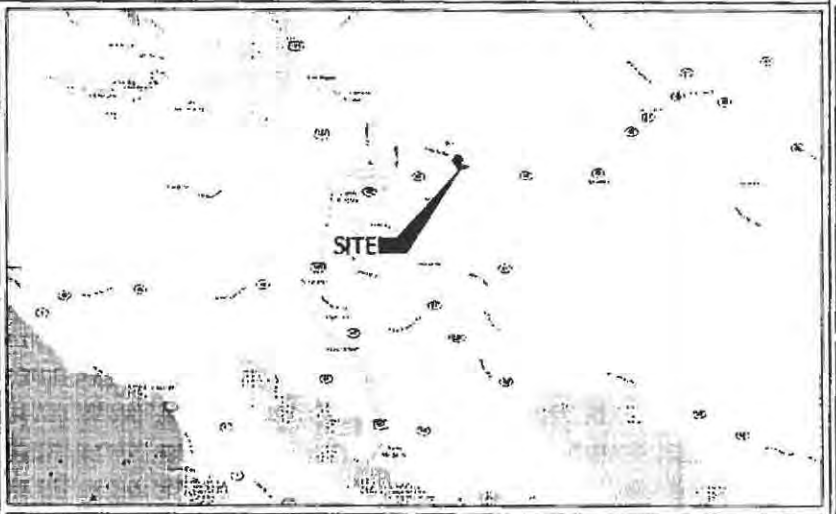
Surveyor

SHEET INDEX

Count	Sheet No.	Sheet Title
1	T-1.0	TITLE SHEET
2	A-1.0	SITE PLAN
3	A-2.0	LEASE AREA & ANTENNA PLANS
4	A-3.0	EXTERIOR ELEVATIONS
5	LS-1	TOPOGRAPHIC SURVEY
6	LS-2	TOPOGRAPHIC SURVEY

PROJECT APPROVALS

Name	Date	Signature
Landlord		
RAC		
Zoning		
Develop. Mgr.		
Const. Mgr.		
Const. Mgr.		
RF Engineer		
Pre-Con Mgr.		
Operations		
USIDoo		



APPLICABLE CODES

Legal Description

POWER & TELCO COORDINATION

AT&T
AT&T WIRELESS SERVICES, INC.

C.R. CARNEY Architects, Inc.

R	Design Review 90% ZDs	8/17/11
1	Client Comments 90% ZDs	9/29/11

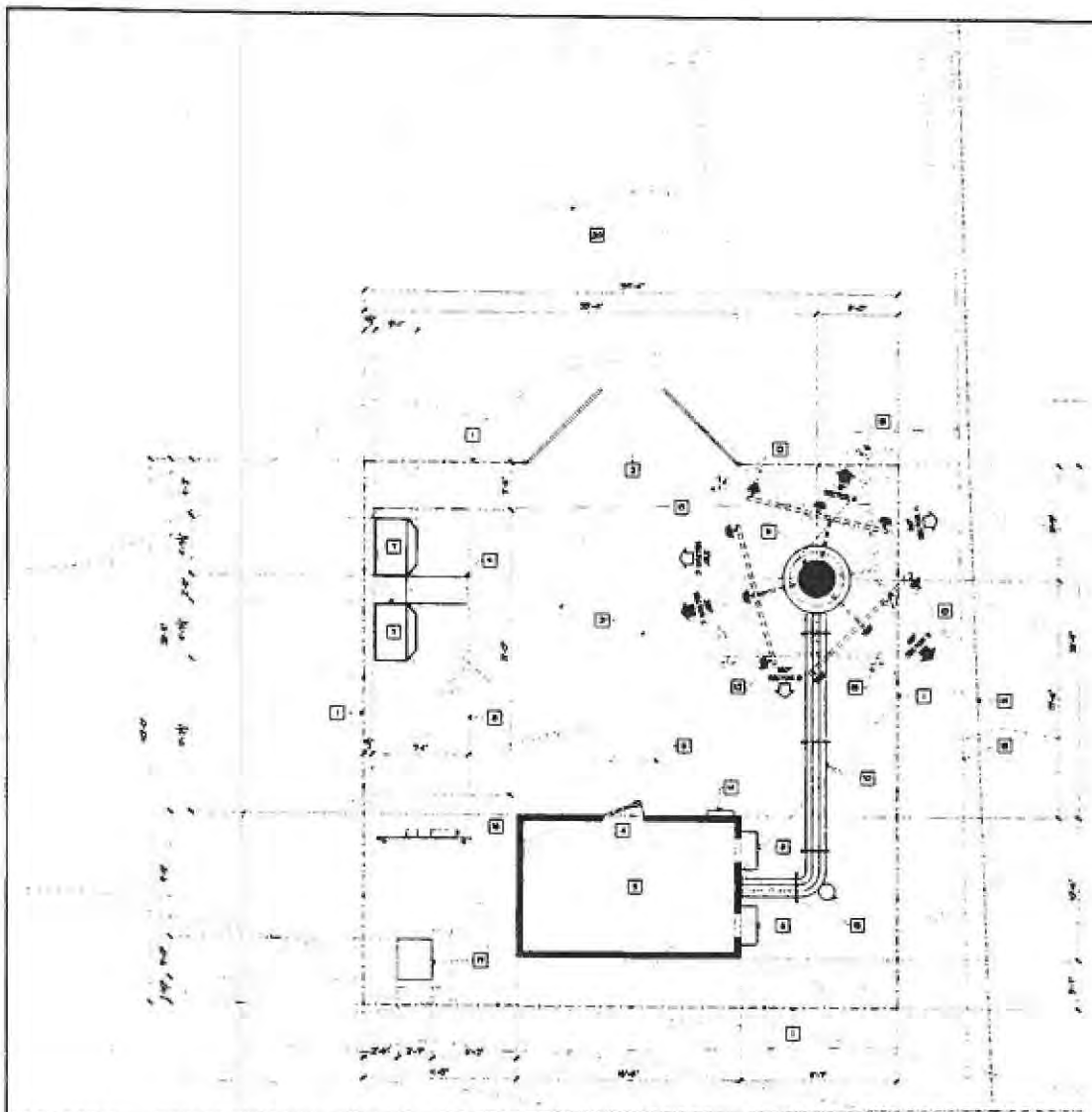
Job Number: 11090
Drawn By: DAM/TSL
Date: 6/3/11
Checked By: TSL

SLG07
Paso Robles Landfill
9000 E Highway 46
Paso Robles, CA 93446

TITLE SHEET

T-1.0

AT&T
AT&T WIRELESS SERVICES, INC.
C.R. CARNEY
Architects, Inc.
A.P.N. 025-491-001
NORTH BRANCH
DRY CREEK ROAD
EXISTING AT&T
LEASE AREA
UNION ROAD
STATE HWY. 46
SITE PLAN
NORTH
11090
D.M.M./T.S.L.
6/3/11
T.S.L.
SLG07
Paso Robles Landfill
SITE PLAN
A-1.0



KEY NOTES:

1. EXISTING CHAIN LINK FENCE W/ COMPOUND W/ BARBED WIRE & TOP
2. EXISTING 9ft. WIDE CHAIN LINK GATES W/ LOCKING RAOD
3. EXISTING AT&T PREFABRICATED, 9'-6"H, APPROVED EQUIPMENT SHELTER
4. EXISTING RACK SHELTER ACCESS DOOR
5. EXISTING CONCRETE STOOP & STEP @ SHELTER DOOR
6. EXISTING WALL MOUNTED AIR CONDITIONING UNITS, PROVIDED BY SHELTER MANUF.
7. EXISTING CARRIER RADIO EQUIPMENT CABINETS MOUNTED TO CONCRETE SLAB
8. EXISTING CONCRETE EQUIPMENT BARRIER SLAB
9. EXISTING CARRIER CABLE TRAY & SLAB 2 UNDERGROUND CONDUIT ROUTE TO POLE
10. EXISTING AT&T COAXIAL CABLE RUNNING FROM LOWER PORT 2 SHELTER TO PORT 6 MONOPOLE
11. EXISTING 84'-0" STEEL MONOPOLE & CONCRETE FOUNDATION
12. EXISTING AT&T PANEL ANTENNAS MOUNTED TO EXIST. POLE, SEE ELEVATIONS AZIMUTHS AS LISTED BELOW:
    SECTOR A: 60°
    SECTOR B: 180°
    SECTOR C: 300°
13. EXISTING CARRIER PANEL ANTENNAS MOUNTED TO EXIST. POLE SEE ELEVATIONS AZIMUTHS AS LISTED BELOW:
    SECTOR A: 60°
    SECTOR B: 180°
    SECTOR C: 300°
14. EXISTING WALL MOUNTED ELECTRICAL METER
15. EXISTING UTILITY POLE
16. EXISTING CARRIER UTILITY RACK W/ ELECTRICAL METER & UTILITY CABINET
17. EXISTING ELECTRICAL TRANSFORMER & PAD
18. PROPERTY LINE, SEE SURVEY
19. EXISTING CHAIN LINK FENCE & PROPERTY LINE
20. SEE TOPOGRAPHIC CONTOURS, SEE SURVEY
21. EXISTING AGGREGATE SURFACING & LEASE AREA

1 A-2.0 LEASE AREA PLAN SCALE: 1/8" = 1'-0"

Graphic Scale

NORTH

AT&T

AT&T WIRELESS SERVICES, INC.
12900 PARK PLAZA DRIVE
CERRITOS, CA 90703

ARCHITECT
C.R. CARNEY Architects, Inc.
12841 Newport Ave. Tustin, CA 92780
Ph: (714) 669-9500 Fax: (714) 665-9591

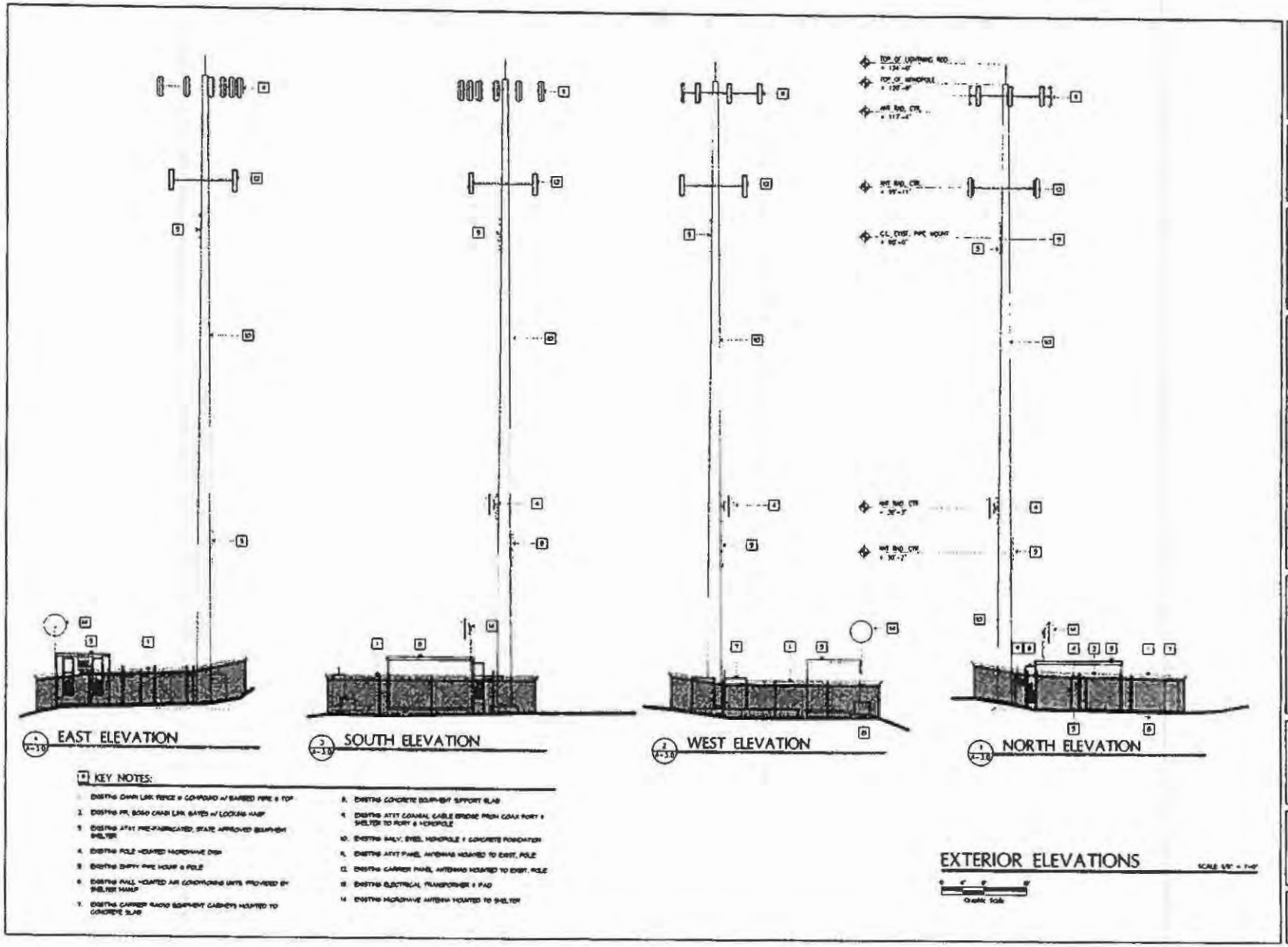
0	Design Review 50% ZDs	8/17/11
1	Client Comments 90% ZDs	9/20/11

Job Number: 1109D
Design by: D.MM/T.S.L.
Plot Date: 6/3/11
Checked by: T.S.L.

SLG07
Paso Robles Landfill
1900 E. Highway 46
Paso Robles, CA 93446

LEASE AREA PLAN

A-2.0



AT&T

AT&T WIRELESS SERVICES, INC.

C.R. CARNEY Architects, Inc.

0	Design Review 90% ZDs	8/17/11
1	Client Comments 90% ZDs	9/29/11

Job Number: 1109D	Drawn By: DMM/TSL
Plot Date: 6/3/11	Checked By: TSL

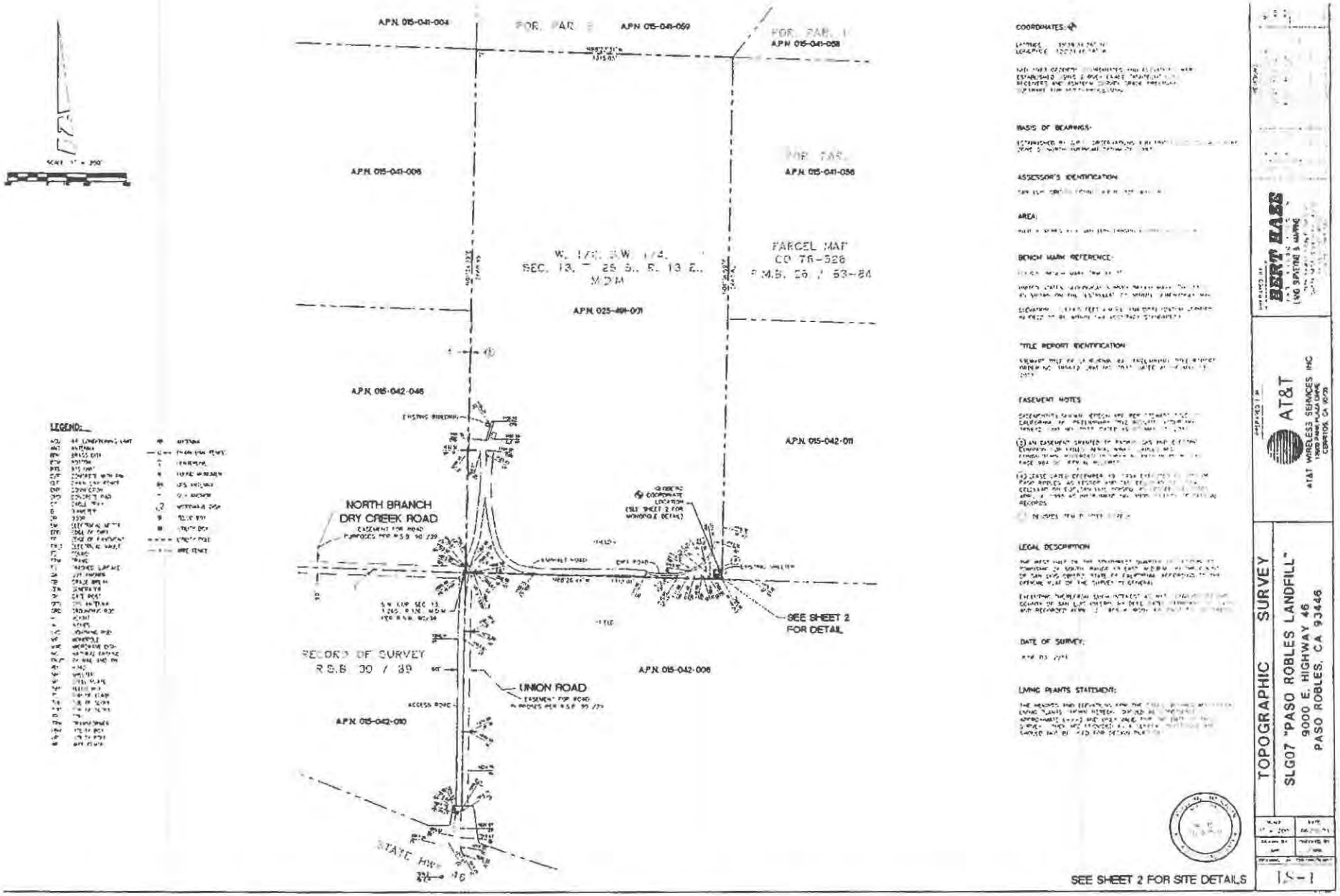
SLG07

Paso Robles Landfill

9000 E. Highway 46
Paso Robles, CA 93446

EXTERIOR ELEVATIONS

A-3.0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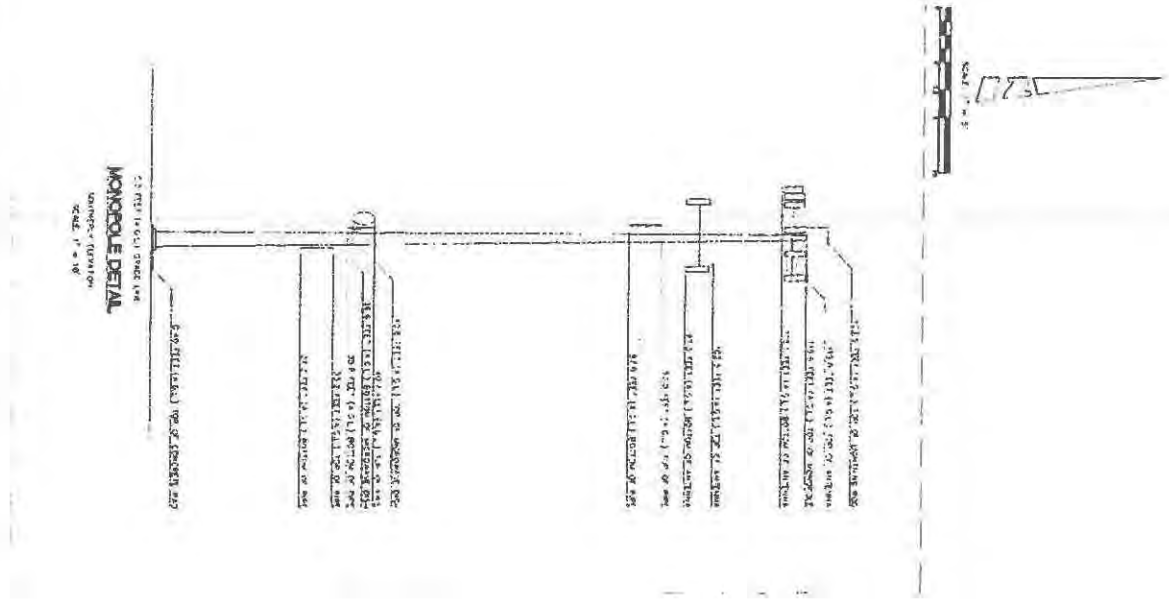
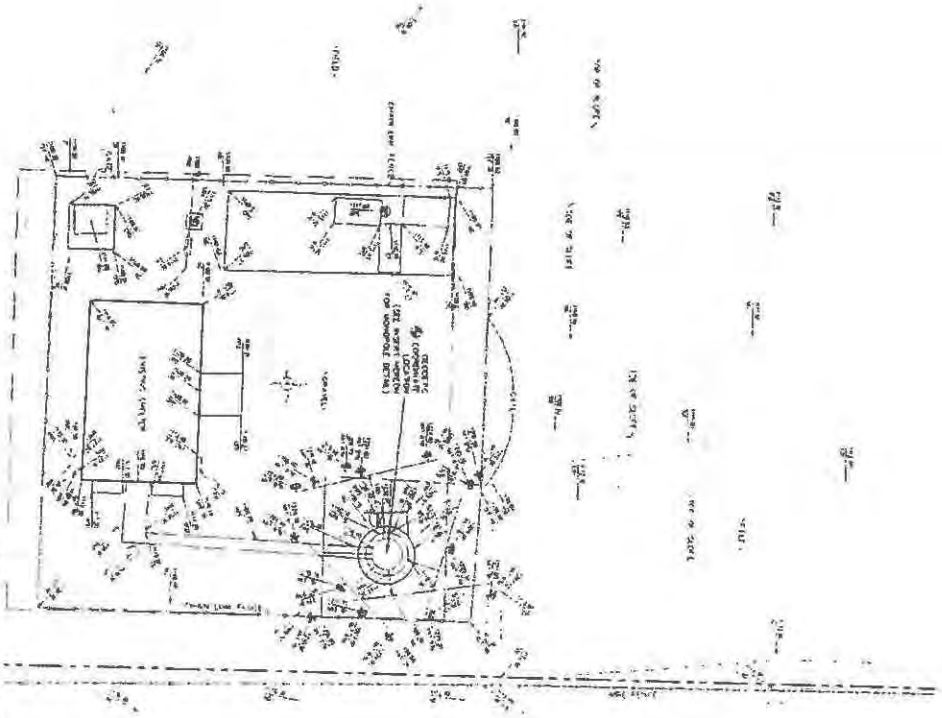
A.P.N. 015-041-059
A.P.N. 015-041-058
A.P.N. 015-041-006
A.P.N. 015-041-056
PARCEL MAP
CO 76-526
P.M.B. 29 / 83-84
A.P.N. 025-491-071
A.P.N. 015-042-046
A.P.N. 015-042-011
NORTH BRANCH
DRY CREEK ROAD
SEE SHEET 2
FOR DETAIL
RECORD OF SURVEY
R.S.B. 30 / 39
UNION ROAD
A.P.N. 015-042-006
A.P.N. 015-042-010
STATE HWY 46
LEGEND:
COORDINATES:
BASIS OF BEARINGS:
ASSESSOR'S IDENTIFICATION:
AREA:
BENCH MARK REFERENCE:
TITLE REPORT IDENTIFICATION
EASEMENT NOTES
LEGAL DESCRIPTION
DATE OF SURVEY:
LIVING PLANTS STATEMENT:
SEE SHEET 2 FOR SITE DETAILS
BERT KASS
AT&T
TOPOGRAPHIC SURVEY
SLG07 "PASO ROBLES LANDFILL"
9000 E. HIGHWAY 46
PASO ROBLES, CA 93446
1 - 1





SEE SHEET 1 FOR BOUNDARY AND TITLE INFO.

TOPOGRAPHIC SURVEY

SLG07 "PASO ROBLES LANDFILL"
9000 E. HIGHWAY 46
PASO ROBLES, CA 93446

AT&T

AT&T WIRELESS SERVICES INC
12900 PARK PLAZA DRIVE
CERRITOS, CA 90703

BERT HAKE
LAND SURVEYING & MAPPING

EXHIBIT C

CONDITIONAL USE PERMIT # 00-008

[attached]

TO: HONORABLE CHAIRMAN AND PLANNING COMMISSION

FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONDITIONAL USE PERMIT 00-008
(CELLULAR ONE OF SAN LUIS OBISPO)

DATE: October 24, 2000

Needs: For the Planning Commission to consider the applicant's request to modify an existing cellular transceiver facility on a 80 acre Public Facilities site located at 9000 Highway 46.

Facts:

1. The project site is proposed for the Southeast corner of the City's landfill property, please see attached location map.

2. The property is zoned PF (Public Facilities) and the General Plan designation is PF (Public Facilities).

3. The current zoning code does not address permitted, conditional, or non-permitted uses in the Public Facilities (PF) zoning district.

3. Cellular One presently leases a forty (40) foot by forty (40) foot space from the City of Paso Robles at the Paso Landfill.

4. The proposed cellular transceiver facility modifications would include:

   a) Increase present height of pole from eighty-five (85) feet to one hundred and twenty (120) feet, thereby adding thirty-five (35) feet to the monopole.

   b) Remove existing whip antennas and associated cross-arms from pole and replace with sectorized directional antennas (Exhibit A).

5. This project was found to be complete for processing on August 7, 2000. Under State Law, in the absence of a mutually agreed upon 90 day time extension or a voluntary withdrawal and resubmittal as a new project, this project must be acted upon by the decision making body by February 7, 2001.

6. The Planning Division staff has determined that this application is Categorically Exempt from environmental review per Section 15303 of the State's Guidelines to Implement CEQA.

7. The Development Review Committee (DRC) reviewed and recommended approval of this project at its meeting of October 2, 2000.

Analysis and Conclusions: Discussions with Cellular One of San Luis Obispo revealed that the replacement antennas are painted a sky blue or off white to try to blend in with the environment. The antennas will be eight (8) feet in length by twelve (12) inches in width.

The current zoning code does not address permitted, conditional, or non-permitted uses in the Public Facilities (PF) zoning district. Requiring a Conditional Use Permit for transmission facilities in the PF zone would, however, be consistent with the City's consideration of similar situations.

Policy Reference: None

Fiscal Impact: None

Options: After consideration of any public testimony, the Planning Commission should consider the following options:

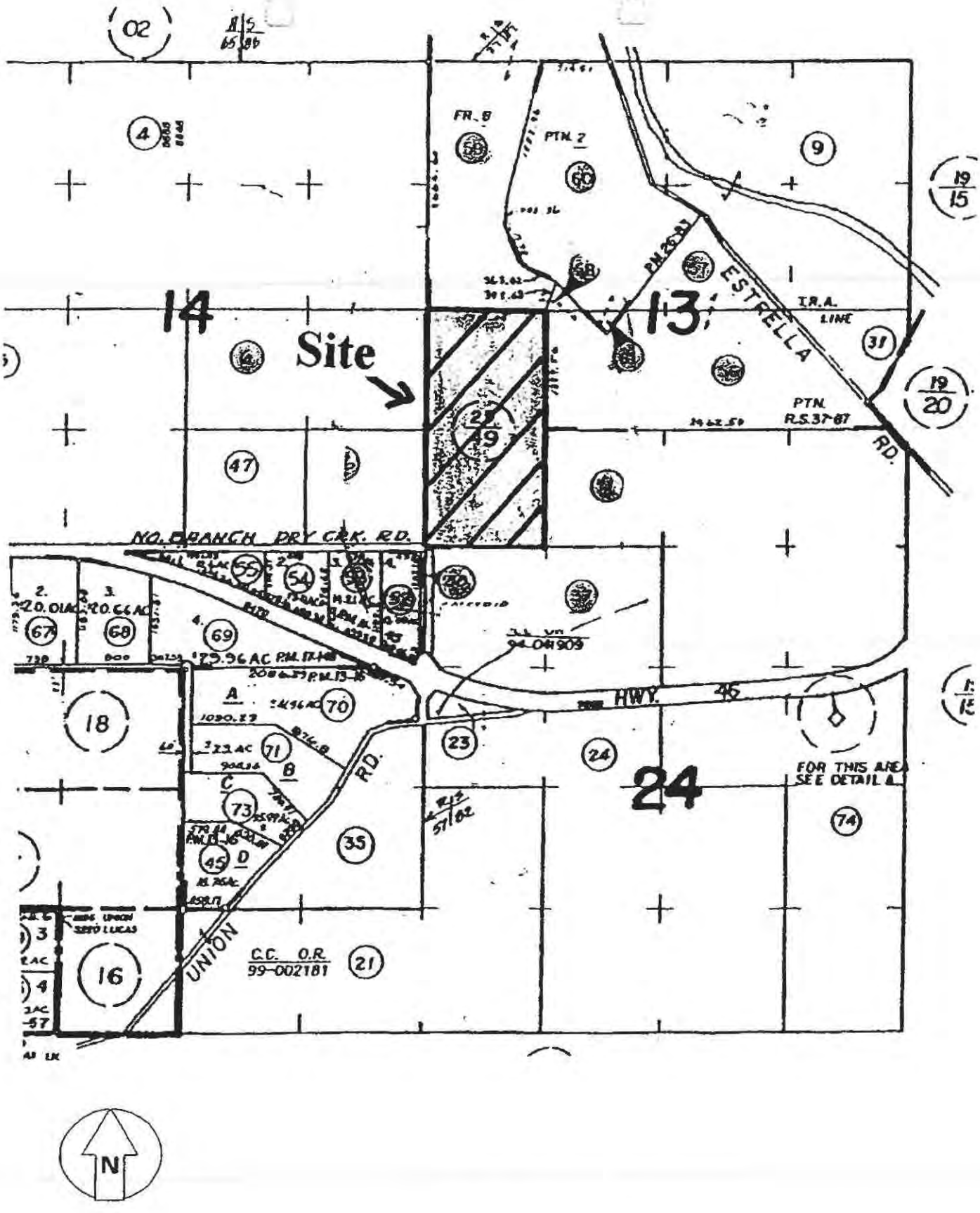
a). Adopt the attached resolution granting approval of Conditional Use Permit 00-008.

b). That the Planning Commission reach a consensus on the basis for denial of Conditional Use Permit 00-008 and direct staff to prepare a resolution with findings for denial for consideration at the November 7, 2000 Planning Commission Meeting.

c). Amend, modify or alter the above noted options.

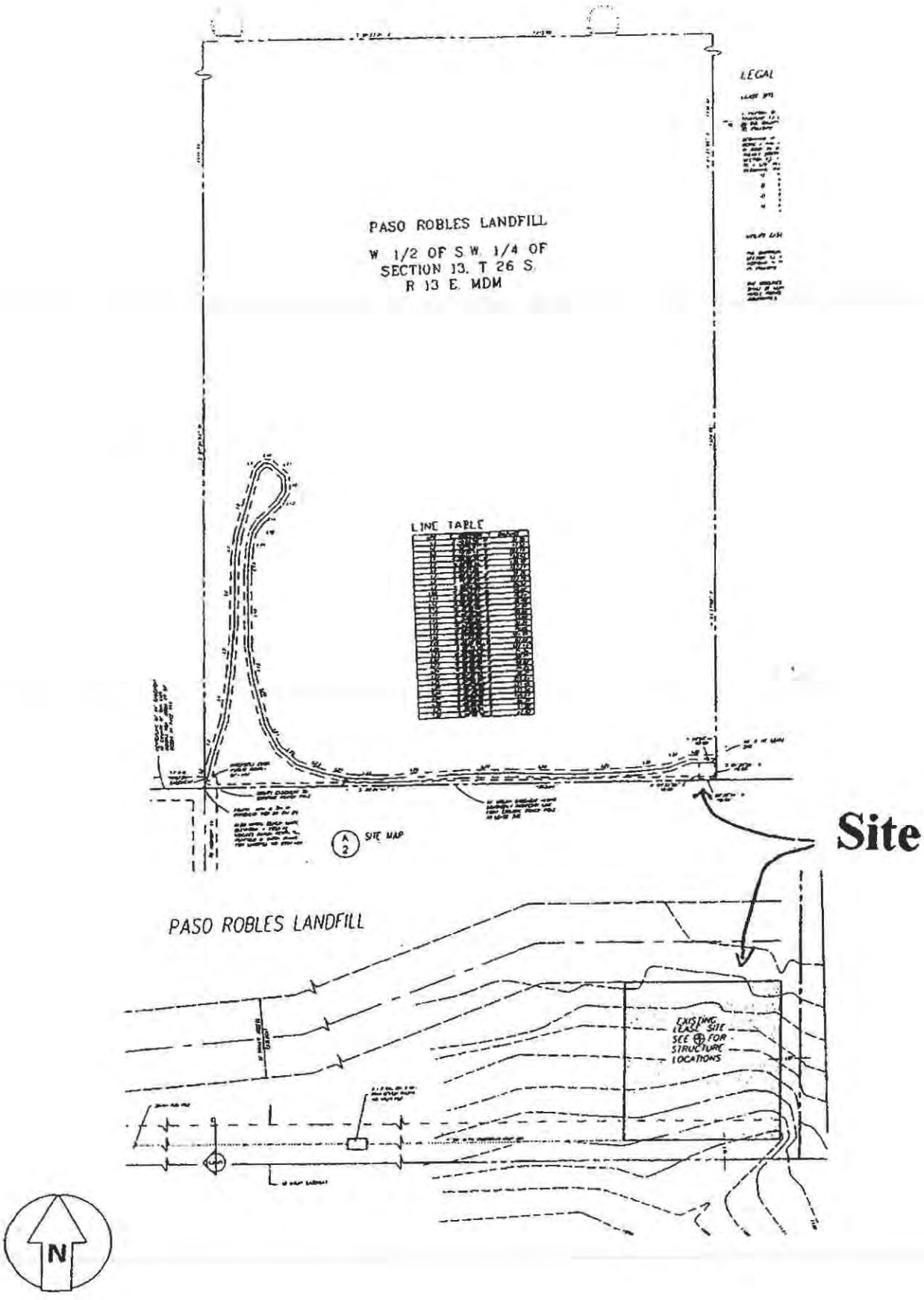
Attachments:
1. Location Map
2. Site Plan
3. View of modifications (Exhibit A)
4. Resolution Approving CUP 00-008
5. Project Information Provided by Applicant
6. Newspaper notice and mail affidavits

H:/tyler/cup/cup 00-008.stf rpt



CUP 00-008
(CELLULAR ONE)

LOCATION MAP



CUP 00-008
(CELLULAR ONE)

SITE MAP

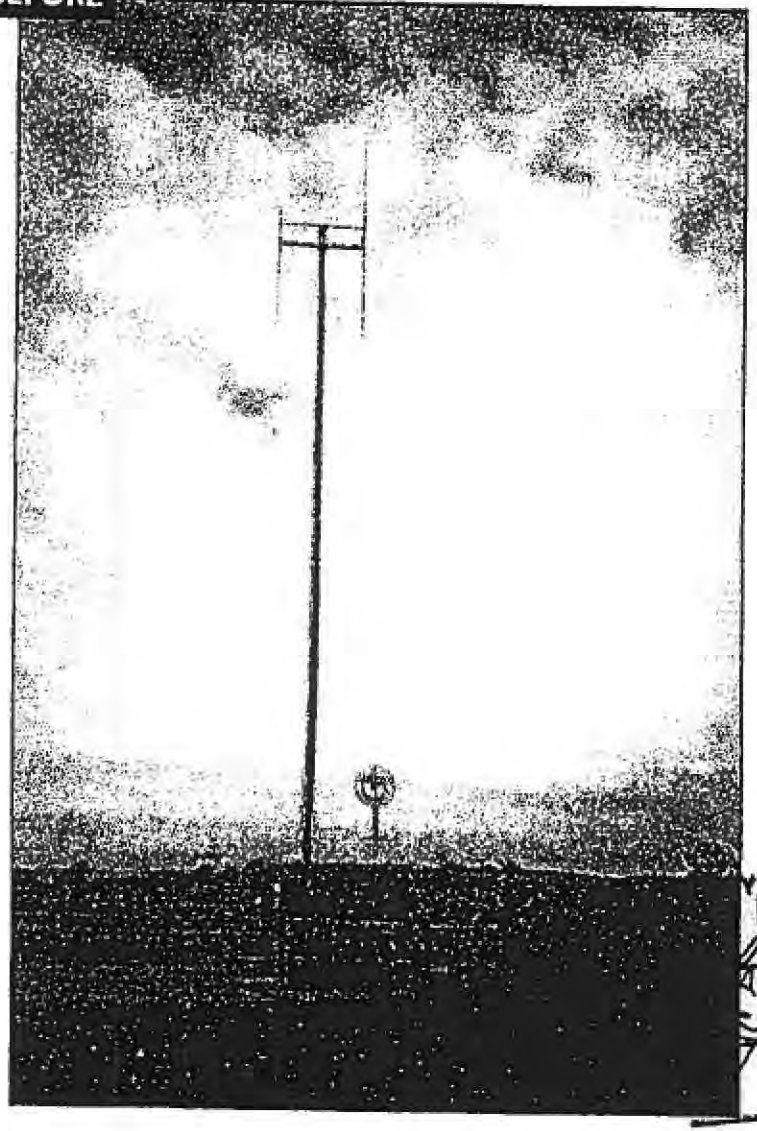
Cellular One of San Luis Obispo

Paso Robles Landfill Removal of Whip Antennas for EMS Panel Antennas

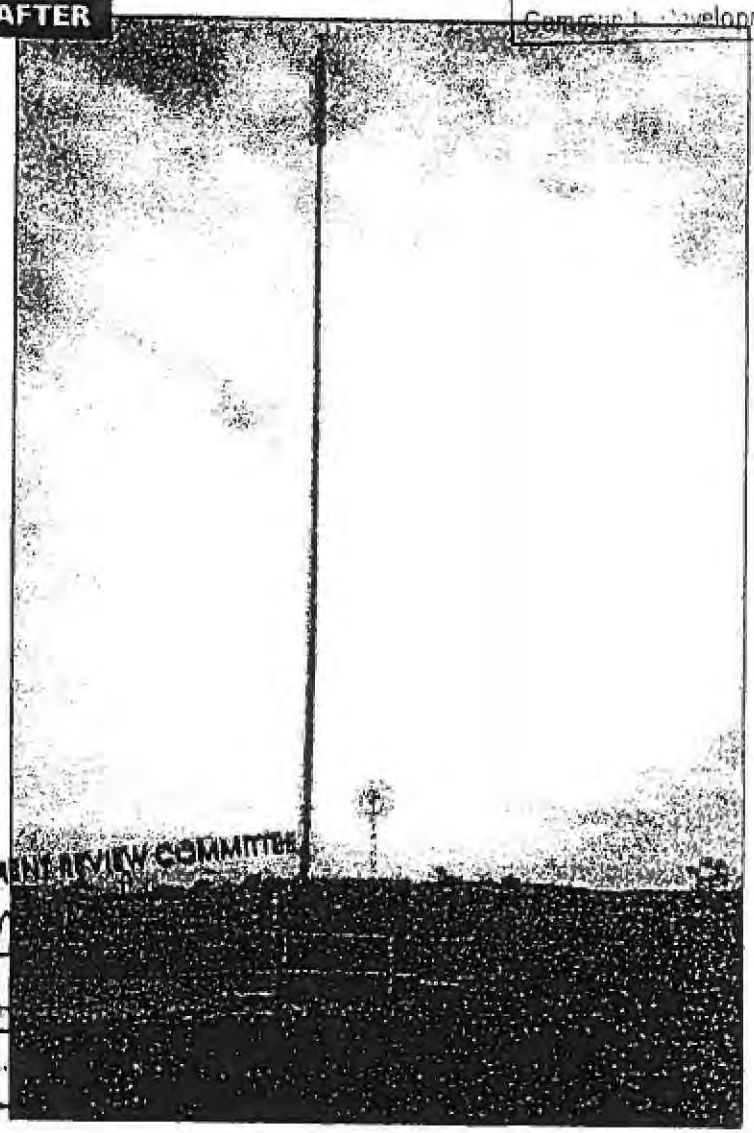
AUG 0 7 2000

Community Development

BEFORE



AFTER



10/2/00

Y DEVELOPMENT REVIEW COMMITTEE

Photographic simulation prepared by TynanGroup, Inc. 2927 De la Vina Street · Santa Barbara, California 93105 · (805) 898-0567

EXHIBIT A

AT&T (New Cingular Wireless) Cell Tower Lease at the Paso Robles Landfill

Financial Comparison

Proposed Lease Agreement

Year	**Monthly**	Annual	T-Mob Monthly	Annual
2017	$ 4,440	$ 53,280	$ 1,291	$ 15,492
2018	$ 4,440	$ 53,280	$ 1,323	$ 15,879
2019	$ 4,440	$ 53,280	$ 1,356	$ 16,276
2020	$ 4,440	$ 53,280	$ 1,390	$ 16,683
2021	$ 4,440	$ 53,280	$ 1,425	$ 17,100
2022	$ 5,106	$ 61,272	$ 1,461	$ 17,528
2023	$ 5,106	$ 61,272	$ 1,497	$ 17,966
2024	$ 5,106	$ 61,272	$ 1,535	$ 18,415
2025	$ 5,106	$ 61,272	$ 1,573	$ 18,875
2026	$ 5,106	$ 61,272	$ 1,612	$ 19,347
2027	$ 5,872	$ 70,464	$ 1,653	$ 19,831
2028	$ 5,872	$ 70,464	$ 1,694	$ 20,327
2029	$ 5,872	$ 70,464	$ 1,736	$ 20,835
2030	$ 5,872	$ 70,464	$ 1,780	$ 21,356
2031	$ 5,872	$ 70,464	$ 1,824	$ 21,890
2032	$ 6,753	$ 81,036	$ 1,870	$ 22,437
2033	$ 6,753	$ 81,036	$ 1,916	$ 22,998
2034	$ 6,753	$ 81,036	$ 1,964	$ 23,573
2035	$ 6,753	$ 81,036	$ 2,014	$ 24,162
2036	$ 6,753	$ 81,036	$ 2,064	$ 24,766
		$ 1,330,260		$ 395,738
		$ 395,738		
		$ 1,725,998		

Existing Lease Agreement

Monthly	Annual	T-Mob Monthly	Annual
$ 4,440	$ 53,280	$ 1,291	$ 15,492
$ 4,618	$ 55,411	$ 1,323	$ 15,879
$ 4,802	$ 57,628	$ 1,356	$ 16,276
$ 4,994	$ 59,933	$ 1,390	$ 16,683
$ 5,194	$ 62,330	$ 1,425	$ 17,100
$ 5,402	$ 64,823	$ 1,461	$ 17,528
$ 5,618	$ 67,416	$ 1,497	$ 17,966
$ 5,843	$ 70,113	$ 1,535	$ 18,415
$ 6,076	$ 72,917	$ 1,573	$ 18,875
$ 6,320	$ 75,834	$ 1,612	$ 19,347
	$ 639,685		$ 173,563
	$ 173,563		
	$ 813,248		

Difference
$ 1,725,998
$ (813,248)
$ 912,750