



**BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS**

Award Contract Grant

Requested Board Meeting Date: April 3, 2018

* = Mandatory, information must be provided

or Procurement Director Award

***Contractor/Vendor Name/Grantor (DBA):**

T-Mobile West, LLC

***Project Title/Description:**

Lease to T-Mobile West, LLC of property at Rillito Regional Park for a cell tower, building and associated equipment. LCP-0149. Supervisor District 3.

***Purpose:**

T-Mobile West, LLC, a Delaware limited liability company ("Tenant" or "T-Mobile") contemplates entering into a lease of property located at the Rillito Regional Park, 4205 N. First Avenue, consisting of approximately 600 square feet, for a communications facility, including a tower, building and associated equipment. A one-time bonus payment in the sum of \$6,000.00 will be payable within 60 days of the Board's approval of the Agreement. This will allow T-Mobile up to one year to complete its due diligence. The Lease term will begin when T-Mobile commences ground disturbance and will be for five (5) years, with automatic renewals for six (6) additional five (5) year periods, unless T-Mobile terminates the lease by providing written notice of termination in accordance with the Lease. The rent was established and legal notice was published in accordance with the A.R.S. section 11-256.

***Procurement Method:**

Exempt pursuant to Pima County Code 11.04.020

***Program Goals/Predicted Outcomes:**

Staff recommends that the Board of Supervisors approve and execute the the Communications Site Lease with T-Mobile.

***Public Benefit:**

Enhanced cell phone coverage for Pima County, and collection of a one-time signing bonus of \$6,000.00 and base rental income of \$24,000.00 for the 1st year of the lease, with a rent escalation of 3% per year thereafter. The County may place equipment on the tower upon compliance with the lease terms, and the County may receive additional revenue from leasing land to third parties co-locating on the tower.

***Metrics Available to Measure Performance:**

The rental rate is supported by an appraisal.

***Retroactive:**

No.

To: COB. 3.16.18
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pgs. 28
(3)

Contract / Award Information

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 18*130

Effective Date: 04/03/2018 Termination Date: 04/02/2024 Prior Contract Number (Synergen/CMS): _____

Expense Amount: \$* _____ Revenue Amount: \$ 133,419.26

*Funding Source(s) required: General Fund PR-Rillito Park

Funding from General Fund? Yes No If Yes \$ _____ % _____

Contract is fully or partially funded with Federal Funds? Yes No

*Is the Contract to a vendor or subrecipient? _____

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

Expense or Revenue Increase Decrease Amount This Amendment: \$ _____

Is there revenue included? Yes No If Yes \$ _____

*Funding Source(s) required: _____

Funding from General Fund? Yes No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

Match Amount: \$ _____ Revenue Amount: \$ _____

*All Funding Source(s) required: _____

*Match funding from General Fund? Yes No If Yes \$ _____ % _____

*Match funding from other sources? Yes No If Yes \$ _____ % _____

*Funding Source: _____

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)? _____

Contact: Michael D. Stofko

Department: Real Property Services

Telephone: 520-724-6667

Department Director Signature/Date: _____

3/12/2018

Deputy County Administrator Signature/Date: _____

3/13/18

County Administrator Signature/Date: _____

C. D. Schubert 3/14/18

(Required for Board Agenda/Addendum Items)

Calculation of Estimated Revenue for 5 Year Term of License, plus one-time bonus payment, for BOS-AIR Purposes

T-Mobile West, LLC. CTN-PW- 18% 130

<u>Year</u>	<u>Amount</u>	<u>Increase</u>	<u>Total</u>
Year 1	\$24,000.00	0	\$24,000.00
Year 2	\$24,000.00	3%	\$24,720.00
Year 3	\$24,720.00	3%	\$25,461.60
Year 4	\$25,461.60	3%	\$26,225.45
Year 5	\$26,225.45	3%	<u>\$27,012.26</u>
		5 year total	\$127,419.26
		Plus One-Time Bonus	\$ 6,000.00
		Estimated Total Revenue	\$133,419.26

CONTRACT

NO. CTN.PW-18.130

AMENDMENT NO. _____

This number must appear on all invoices, correspondence and documents pertaining to this contract.



PIMA COUNTY
REAL PROPERTY

PIMA COUNTY REAL PROPERTY SERVICES

PROJECT: COMMUNICATIONS SITE LEASE AT 4502 N. First Avenue, Tucson, AZ 85718

TENANT: T-MOBILE WEST LLC (PH35368A)

AMOUNT: REVENUE CONTRACT

Communications Site Lease

1. **Defined Terms.** The following terms will be used as defined terms in this Communications Site Lease ("**Lease**") and have the meaning set forth below:

1.1. "Landlord" or "County": Pima County, a political subdivision of the State of Arizona

1.2. "Tenant": T-Mobile West LLC, a Delaware Limited Liability Company

1.3. "Rillito": Rillito Regional Park, located at 4502 N. First Avenue, Tucson, AZ, which is owned by Landlord

1.4. "Leased Premises" or "Premises": the land which is legally described on Exhibit A. The Premises total approximately 600 square feet.

2. **Background and Purpose.** Tenant desires to lease the Premises from Landlord for the purpose of constructing, maintaining, removing, replacing, securing, and operating a communications facility and uses incidental thereto, including, but not limited to, the construction or installation and maintenance of a telecommunications tower (the "**Tower**"), a building (the "**Building**"), and structural tower base(s), guy anchors, guy wires, communications equipment, one or more buildings or equipment cabinets, equipment, radio transmitting and receiving antennas, personal property and related improvements and facilities on the Premises (collectively, the "**Equipment**"). The Tower, Building and Equipment are hereinafter collectively referred to as the "**Tenant's Facilities**"). The purpose and intent of this Lease is to

facilitate the use of the Premises by Tenant as a site for the transmission and receipt of communication signals including, but not limited to, voice, data and internet transmissions and for any other uses which are incidental to the transmission and receipt of communication signals of any kind and frequency. Such use shall include Tenant's ability to install utilities (including, but not limited to, electricity and electric power sources or creation of any kind, fiber optic lines, cable lines, and any cabling or transmission conduits of any kind or type) in, on, and to the Premises. Landlord has advertised and auctioned this Lease pursuant to A.R.S. §11-256 and Tenant was the highest responsible bidder at said auction.

3. **Lease of Premises.** Landlord agrees to lease the Premises to Tenant on the terms and conditions contained in this Lease.

4. **Effective Date.** This Lease shall be effective on the date it is signed by all of the parties hereto (the "**Effective Date**"). This Lease shall be considered signed by County on the date that it is executed by the Chair of the Pima County Board of Supervisors.

5. **Signing Bonus.** As additional consideration for this Lease, Tenant shall pay Landlord a one-time, non-refundable lump-sum signing bonus of Six-Thousand Dollars (\$6,000.00), which shall be considered as "additional rent for the Premises for the period beginning on the Effective Date, until the Commencement Date, which sum shall be paid within sixty (60) days of the Effective Date. Landlord recognizes that Section 4 of this Lease governs the Effective Date and that this Section 5 does not impact whether or not Tenant chooses to commence the Term.

6. **Term/Commencement Date.**

6.1. **Commencement Date.** The "Commencement Date" shall mean the earlier of:

6.1.1. the 1st day of the first full month that is 365 days after the Effective Date, or

6.1.2. the date Tenant commences ground disturbance for installation of the equipment on the Premises ("**Ground Disturbance**"), provided that in the event the date Tenant commences Ground Disturbance falls between the 1st and 15th of the month, the Lease shall commence on the 1st of that month, and if the date installation commences falls between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either the "**Commencement Date**"). Landlord and Tenant agree that they shall acknowledge in writing the Commencement Date if such date is based upon Ground Disturbance. The term "Ground Disturbance" shall not include Tenant's standard due diligence of the Premises for suitability, including but not limited to, soils testing for architectural or environmental purposes.

6.1.3. Tenant shall have the right to terminate this Lease at any time before the Commencement Date for any or no reason in Tenant's sole discretion.

6.2. **Initial Term.** The initial term of this Lease shall be for a term commencing on the Commencement Date and ending five (5) years after the Commencement Date (the "**Termination Date**"), unless earlier terminated or extended in accordance with the terms set forth herein.

6.3. Extensions of Lease. This Lease shall automatically be extended for six (6) additional five (5) year terms unless Tenant terminates it at the end of the then current term by giving Landlord written notice of the intent to terminate at least three (3) months prior to the end of the then current term. The "**Term**" shall be considered the initial term plus any extension terms.

6.4. It is understood and agreed that Tenant's ability to use the Premises is contingent upon its obtaining after the Effective Date any and all agreements, easements, permits, certificates, licenses, variances, zoning approvals, or any other approvals (collectively the "**Governmental Approvals**") that may be required by any federal, state or local authorities as well as satisfactory soil boring tests which will permit Tenant's use of the Premises as set forth above and/or which are necessary for the construction and operation of Tenant's Facilities. Landlord shall cooperate with Tenant in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Premises with respect to the proposed use thereof by Tenant. In that regard, after the Effective Date and during the period prior to the Commencement Date, Landlord will provide Tenant with any keys or access codes necessary for access to the Premises. During such period, Tenant and its officers, agents, employees and independent contractors may enter upon the Premises to perform or cause to be performed test borings of the soil, environmental audits, engineering studies and to conduct a metes and bounds survey of the Premises (the "**Survey**"), provided that Tenant will not unreasonably interfere with Landlord's use of the Premises in conducting these activities. At Tenant's discretion, the legal description and/or depiction of the Premises as shown on the Survey may replace the descriptions of the Premises set forth on Exhibit A and Exhibit B of this Lease.

6.5. Tenant shall have the right to terminate this Lease upon thirty (30) days' written notice to Landlord in the event that (i) any of applications for Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to Tenant is cancelled, expires, lapses, or is otherwise withdrawn or terminated by any governmental authority, through no fault of Tenant; (iii) Tenant determines, in its sole discretion, that such Governmental Approvals may not be obtained in a timely manner; (iv) Tenant determines, in its sole discretion, that any soil boring tests are unsatisfactory; or (v) after the initial five (5) year term of the Lease and only upon delivery of ninety (90) days prior written notice of such termination from Tenant, if Tenant determines that either (a) the Premises is no longer technically compatible for its use, or (b) Tenant, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary. Notice of Tenant's exercise of its right to terminate shall be given to Landlord in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by Tenant, or upon such later date as designated by Tenant. All rentals paid to said termination date shall be retained by Landlord. Upon such termination, Tenant shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each party to the other hereunder.

7. **Rent.**

7.1. Monthly Base Rent. Beginning on the Commencement Date and on the first day of each calendar month thereafter throughout the Term hereof, Tenant shall pay to Landlord as

monthly rent in advance the sum of Two Thousand Dollars (\$2,000.00) ("**Base Rent**"), adjusted as provided in Section 7.2 below. Base Rent will be prorated for any partial months, including, the month in which the Commencement Date occurs. Notwithstanding the foregoing, Landlord and Tenant acknowledge that the first Base Rent payment shall not be due from Tenant before the date that is sixty (60) days after the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1, Tenant shall send to Landlord the Base Rent for January and February (i.e. the first and second month's Base Rent) by March 2. Landlord and Tenant agree to execute a written acknowledgement confirming the Commencement Date, if such an acknowledgement is required.

7.2. Rent Escalation. Beginning one year after the Commencement Date, and annually thereafter during the Term, Base Rent shall be increased annually in an amount equal to three percent (3%) of the immediately preceding annual rate or Base Rent.

7.3. Taxes. In addition to Base Rent, Tenant shall also pay any incremental increase in taxes, maintenance or repair costs, or other costs owed or paid by Landlord resulting directly from Tenant's rental or use of the Premises, including without limitation any property, rental, sales, use, or other taxes levied by any governmental entity, or Tenant's proportionate share of any costs or fees validly imposed on the Premises by a third party as a direct result of Tenant's rental or use of the Premises, including, by way of example, any proportionate costs of access to the Premises, except that Tenant shall have no liability for any increase in, or any other portion of, Landlord's income taxes, whether federal, state or local. Landlord shall provide reasonable written evidence of any amounts due by Tenant hereunder prior to payment by Tenant. In addition to the foregoing, if personal property taxes are assessed against Tenant's Facilities, Tenant shall be responsible for any portion of such taxes.

7.4. Payment of Rent. Rent must be delivered to (unless otherwise directed in writing by Landlord):

Pima County Government
Finance-Revenue Management Division
33 N. Stone, 6th Floor
Mail Stop DT-BAB6-401
Tucson, AZ 85701-1317

7.5. Late Payment Fee. In the event any payment of Base Rent is not paid when due and remains unpaid after five (5) days of Tenant's receipt of written notice, Tenant shall pay a late payment fee of Ten Dollars (\$10.00) per day for each day that such Base Rent payment is late.

7.6. Rental Documentation. If Landlord sells the Premises or assigns this Lease in accordance with the terms and conditions set forth in Section 19, any successor to Landlord ("**Successor**") will provide to Tenant certain documentation (the "**Rental Documentation**") evidencing Landlord's interest in, and right to receive payments under, this Lease, including without limitation: (i) documentation, acceptable to Tenant in Tenant's sole but reasonable discretion, evidencing Landlord's good and sufficient title to and/or interest in the Premises and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed

Internal Revenue Service Form W-9, or equivalent, in a form acceptable to Tenant, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by Tenant in Tenant's sole but reasonable discretion. Within thirty (30) days of a written request from Tenant, Landlord agrees to provide updated Rental Documentation in a form reasonably acceptable to Tenant. The Rental Documentation shall be provided to Tenant in accordance with the notice provisions of this Lease. If Landlord transfers the Premises or assigns its interest in this Lease, delivery of Rental Documentation to Tenant shall be a prerequisite for the payment of any rent by Tenant.

8. **Utilities.** During the term of this Lease, Landlord grants to Tenant, Tenant's employees, agents, contractors and any Collocator(s) (defined below) a non-exclusive easement for the purpose of installing new and/or improving present utilities on the Premises at the location(s) described on Exhibit B as necessary to install and maintain Tenant's Facilities, which may include, but is not limited to, the installation of backup generators on the Premises. Tenant must, at its sole cost and expense, arrange for the furnishing of all utilities, including electricity, gas, water and sewer, that are necessary for its operations on the Premises, and Tenant covenants and agrees to pay all charges for such utilities and services directly to the supplier thereof. Except for any failure or defect caused by Landlord's gross negligence or willful misconduct, Landlord will not be liable in any way to Tenant for any failure or defect in the supply or character of utilities furnished to the Premises by reason of any requirement, act or omission of the provider of such service, or for any other reason.

9. **Use.** Tenant may use the Premises for any lawful activity in connection with the provision of communication services by Tenant, including, but not limited to, the purposes set forth in Section 2 of this Lease.

10. **Access.** Tenant, Tenant's employees, agents, contractors and any Collocator(s) entities shall have access, ingress and egress to the Premises, each at its sole discretion, twenty-four (24) hours a day, seven (7) days a week, three hundred sixty five (365) days a year, at no charge. During the term of this Lease, Landlord grants to Tenant, Tenant's employees, agents, contractors and any Collocator(s) a non-exclusive easement for the pedestrian and vehicular ingress and egress at the location(s) described on Exhibit B as necessary to install and maintain Tenant's Facilities. In the event that the Premises loses access to a public right of way during the Term, Landlord and Tenant agree to amend this Lease, at no imposed cost to either party, to provide access to a public way by: (i) amending the location(s) of the access easements set forth on Exhibit B; or (ii) granting an additional access easement to Tenant. To the extent damage (including wear and tear caused by normal usage) to the access ways or any other routes contemplated hereunder intended to provide Tenant with access to the Premises is caused by Landlord or Landlord's tenants, licensees, invitees or agents, Landlord will repair the damage at its own expense. Landlord will maintain access to the Premises from a public way in a free and open condition so that no interference is caused to Tenant by Landlord or lessees, licensees, invitees or agents of Landlord. In the event that Tenant's access to the Premises is impeded or denied by Landlord or Landlord's lessees, licensees, invitees or agents, in addition to any and all rights and remedies set forth in this Lease, Tenant shall have the right to pursue any and all rights and remedies that it may have at law or in equity.

11. Tenant's Facilities.

11.1. Tenant will have the right to construct Tenant's Facilities on the Premises (the "**Project**"), which will be the exclusive property of Tenant throughout the Term as well as upon the expiration or termination of this Lease. The Project must be constructed in a good and workmanlike manner and in accordance with all applicable requirements of local ordinances, including zoning, and all rules, regulations, and requirements of all departments, boards, bureaus, officials, and authorities having jurisdiction thereof; provided, however, that Tenant is not responsible for reasonable wear and tear or damage from casualty and condemnation. Landlord grants Tenant the right to clear all trees, undergrowth, or other obstructions and to trim, cut, and keep trimmed all tree limbs which may interfere with or fall upon Tenant's Facilities or the Premises. Tenant must obtain all necessary permits. The Building must be erected wholly within the boundary lines of the Premises. Tenant shall be solely responsible for payment of all costs for construction of Tenant's Facilities.

11.2. To further the purposes of the construction of the Project, Landlord grants Tenant a non-exclusive easement in, over, across and through the Premises, as more particularly described on Exhibit B, and other real property owned by Landlord contiguous to the Premises as may be reasonably required for construction, installation, maintenance, and operation of the Project including: (i) access to the Premises for construction machinery and equipment, (ii) storage of construction materials and equipment during construction of the project, and (iii) use of a staging area for construction, installation and removal of equipment.

11.3. Tenant may, at its sole expense, use any and all appropriate means of restricting access to the Premises and/or the Project, including, without limitation, construction of a fence and may install and maintain identifying signs or other signs required by any governmental authority on or about the Premises, including any access road to the Premises.

11.4. The Tower shall be constructed to accommodate Collocators.

12. **Pre-Construction Requirements.** Before any construction of the Project is commenced on the Premises, and before any building materials have been delivered to the Premises by Tenant or under Tenant's authority, and during the period of construction, Tenant must comply with all the following conditions or obtain Landlord's written waiver of the condition or conditions specified in the waiver:

12.1. Plans. Plans and specifications for the Project prepared by an architect or engineer licensed to practice in Arizona are attached hereto as Exhibit C (the "Plans") and are hereby approved by Landlord.

12.2. Liability Insurance. Tenant must furnish to Landlord proof that Tenant has obtained the liability insurance required under Section 21 below.

12.3. Builder's Risk Insurance. Tenant must furnish to Landlord a Certificate of Insurance documenting proof that Tenant's contractor, has obtained an "all risks" builder's risk insurance policy providing insurance coverage while contractor is constructing, repairing or replacing parts on the Tower. Insurance coverage to include broad form property coverage including vandalism and malicious mischief, with a company reasonably acceptable to Landlord, covering improvements in place and all material and equipment at the job site furnished under

contract, but excluding contractor's, subcontractor's and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees. Insurance coverage terminates when the installation or erection of the property is completed and accepted as satisfactory. Landlord is to be included as a loss payee on the Installation/Builders' Risk Policy.

12.4. Payment and Performance Bonds. Tenant must deliver to Landlord payment and performance bonds issued by a surety company licensed to do business in the State of Arizona, running to Landlord, as obligee, conditioned on the contractor's completion of the Project in accordance with the Plans and the provisions of this Lease, free and clear of all mechanics' and materialmen's or other liens and free and clear of all financing statements under the Uniform Commercial Code. This bond must be in an amount and in a form and written by a company approved by Landlord, which approval Landlord will not unreasonably withhold, condition or delay.

12.5. Worker's Compensation Insurance. Tenant must deliver to Landlord satisfactory proof that worker's compensation insurance has been procured to cover all persons employed in connection with the construction, and includes a waiver of subrogation.

12.6. Costs. The costs associated with Landlord's review of the Plans and Tenant obtaining the Governmental Approvals for the Project will be paid for by Tenant.

13. **Construction Requirements.**

13.1. Liens. Tenant agrees to timely pay all contractors, subcontractors, mechanics, laborers, or materialmen providing materials or services with respect to the Project which are ordered or contracted with by Tenant, and in the event that any lien attaches to the Premises or any interest therein as a result of a failure by Tenant to make any such payment for which Tenant is responsible under the terms of this Lease, Tenant agrees to remove such lien within thirty (30) days of receipt of written notice of attachment, at Tenant's sole cost and expense.

13.2. Plan Modifications. Tenant may, at any time during the course of construction, request that the Plans be modified in such particulars as may be specified by Tenant, and Landlord agrees that it will not unreasonably withhold, condition or delay its consent to such changes.

13.3. Commencement of Construction. Unless Tenant terminates this Lease in accordance with Tenant's rights under this Lease, Tenant shall commence construction of the Project within one (1) year after the Effective Date or ninety (90) days after the date Tenant obtains all necessary local and federal Governmental Approvals, whichever is later. Notwithstanding the foregoing, any such delay in the commencement of construction shall not affect Tenant's obligation to commence payment of the monthly Base Rent as set forth in Section 7.1. If Tenant fails to commence construction within the time limits set forth above (without regard to delays occasioned by "*force majeure*"), Landlord will have the right as its sole and exclusive remedy to cancel this Lease by written notice to Tenant, in which event this Lease will terminate thirty (30) days after the giving of such notice, unless Tenant, within such thirty (30) day period, commences construction of the Project. After construction is commenced,

Tenant must diligently pursue it to completion, in accordance with the Final Plans, in a good workmanlike manner, and in compliance with all applicable laws and regulations of all governmental bodies and pursuant to the conditions of any Governmental Approvals obtained by Tenant.

13.4. Landlord Inspection. During construction of the Project, the Project will be subject to inspection by representatives of Landlord who will be permitted access and the opportunity to inspect the Project at all reasonable times upon at least forty eight (48) hours prior written notice to Tenant, except in the case of an emergency, but this provision will not in any way whatsoever create any obligation on Landlord to conduct such an inspection. Notwithstanding the foregoing, Landlord shall not access or climb Tenant's Tower or Building without Tenant's prior written consent.

13.5. Substantial Completion. In the event construction is not substantially completed within fifteen (15) months after Tenant commences same (subject to delays occasioned by "*force majeure*"), Landlord will have the right as its sole and exclusive remedy to cancel this Lease by written notice to Tenant, in which event this Lease will terminate thirty (30) days after the giving of such notice, unless Tenant, within such thirty (30) day period, substantially completes construction of the Project.

13.6. Final Completion. Notwithstanding that the Project has been substantially completed, Tenant must diligently proceed to final completion of the Project and obtain a permanent certificate of occupancy for the Project.

13.7. Manner of Construction. Notwithstanding anything to the contrary hereof, construction of the Project by Tenant must be done in such a manner that it does not materially and unreasonably interfere with the Premises. Tenant will store construction equipment or materials within a reasonable area on or around the Premises, and will provide temporary fencing to secure such construction staging area.

13.8. Replanting of Vegetation. Tenant must replant any trees or other significant vegetation removed during construction on the Premises, in a location and a manner reasonably satisfactory to Landlord, with like-in-kind trees or vegetation; provided, Tenant shall not be responsible for maintaining any vegetation after planting.

13.9. Design Capacity. At the time of Tenant's initial design of Tenant's Facilities, no structural member, foundation component, fastener, weldment or discreet section shall be stressed to more than 80% of the designed capacity. Additionally, the designed capacity of Tenant's Facilities shall at all times include a minimum of two (2) additional cellular arrays. In the event any change or modification of the International Building Code ("IBC") requirements necessitates structural modification or alteration to Tenant's Facilities, in order to comply with the preceding sentence, Tenant agrees to make such structural modification or alteration in order to bring the capacity of Tenant's Facilities in compliance with local building codes and applicable IBC requirements, as applicable and as amended from time to time, and as adopted by the permitting jurisdiction.

14. Title to the Project.

14.1. Tenant will own the Project improvements and Tenant's Facilities as they are built. At all times prior to expiration or termination of this Lease, and subject to Section 14.2 below, title to the Project and Tenant's Facilities will belong solely to the Tenant and Landlord waives any and all lien rights it may have concerning Tenant's Facilities.

14.2. All of the Equipment shall remain Tenant's personal property and are not fixtures. Tenant has the right to remove the Equipment at its sole expense on or before the expiration or earlier termination of this Lease, and Tenant shall repair any damage to the Premises caused by that removal, reasonable wear and tear excepted. Upon the expiration or earlier termination of this Lease, Tenant shall remove Tenant's Facilities from the Premises at its sole cost and expense within ninety (90) days following such expiration or termination, unless Landlord has advised Tenant in writing that Tenant's Facilities may remain on the Premises, in which case Tenant shall convey title to Tenant's Facilities to Landlord pursuant to a bill of sale at no cost to Landlord.

15. **Alterations.** Tenant, after completion of the Project, may from time to time during the Term make changes, alterations, additions, substitutions or improvements to the Premises (collectively, "Alterations"), at Tenant's sole cost and expense, as set forth below:

15.1. Minor Alterations. Tenant and/or any Collocators may make alterations within the confines of the Premises or utility or access easement(s); specifically including any and all changes to Tenant's Facilities inside the equipment space or like for like swap of antennas and related equipment as Tenant may reasonably consider necessary and desirable to adapt or equip the Project for Tenant's use and occupancy, except as set forth below. Tenant shall be permitted to make such alterations without incurring any increase in Base Rent, and without Landlord's approval thereof conditioned upon any extension of the remaining Term or other change to the terms and conditions of this Lease.

15.2. Substantial Alterations. Tenant will make no Alterations that will materially modify the visual impact of the Tower or the outside of the Building (collectively, "Substantial Alterations"), unless Tenant first delivers plans and specifications to Landlord and obtains Landlord's written approval which will not be unreasonably withheld, conditioned or delayed. In the event Landlord fails to approve or disapprove such plans and specifications within thirty (30) days following receipt thereof, the plans and specifications for the Substantial Alterations will be deemed approved by Landlord. The requirements applicable to the initial construction of the Project, as set forth in Section 13 above, including but not limited to insurance and bonding requirements and approval of plans and specifications, will apply to Substantial Alterations.

16. **Maintenance and Repairs.** All improvements on the Premises, both outside and inside, must be put and kept in good order and repair by Tenant at Tenant's sole cost and expense, and subject to the terms and conditions of this Lease, Tenant must make all repairs and replacements, ordinary as well as extraordinary, foreseen and unforeseen, structural or otherwise, that may be necessary or required by Tenant to maintain Tenant's Facilities in working condition. If Tenant fails to make such repairs, restoration or replacements within thirty (30) days after written notice from Landlord, then Landlord may make them, and Tenant shall reimburse Landlord the actual

costs incurred by Landlord in connection with such repairs, restoration or replacements within thirty (30) days after Landlord sends Tenant an invoice detailing the actual costs incurred by Landlord. Notwithstanding the foregoing, Tenant will remove any graffiti on the Building or Tenant's fence or wall within ten (10) business days after Tenant receives written notice from Landlord of the graffiti.

17. Entry by Landlord. Landlord reserves the right to enter the Premises to inspect the same; provided that Landlord will give Tenant at least forty-eight (48) hours advance written notice. Landlord shall repair any damage to the Premises or to Tenant's Facilities caused during any such inspection. Notwithstanding the foregoing, Landlord shall not access or climb Tenant's Tower or Building without Tenant's prior consent. Landlord shall notify Tenant in the event of an emergency and, if Tenant fails to respond, Landlord at any and all times will have the right to use any and all means which Landlord may deem proper to open gates or doors in an emergency in order to obtain entry to the Premises, without liability to Tenant, except for any failure to exercise due care for Tenant's property, and any entry to the Premises obtained by Landlord by any such means, or otherwise, will not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof. The telephone number for Tenant's Network Operations Center is 1-866-426-9204.

18. Damage for Casualty.

18.1. Except as provided in Section 18.2 below, if any of Tenant's Facilities on the Premises is damaged or destroyed by any cause whatsoever, during the Term of this Lease, Tenant may, within one hundred eighty (180) days after the date of such damage, elect to repair and replace the same at its own expense, to substantially the same condition existing immediately prior to the damage or destruction, and, if Tenant does repair and replace, Tenant's obligations under this Lease will not be terminated or suspended.

18.2. If the Premises are substantially destroyed by fire or other casualty at any time during the Term, in Tenant's sole but reasonable discretion, then Tenant may terminate this Lease by written notice given to Landlord within thirty (30) days after the date of such destruction, and Tenant will be discharged from responsibility to repair the damage, but Tenant must in that event, at Tenant's sole cost and expense, remove any remaining portion of Tenant's Facilities within ninety (90) days after the date of such termination.

19. Intentionally Deleted.

20. Co-Location.

20.1. Right to Co-Locate. Subject to Landlord's Right of First Refusal under Section 20.4 below, Tenant shall have the right to co-locate additional users on Tenant's Facilities (each, a "Collocator" and collectively, the "Collocators"), which includes the Leased Premises, in compliance with the terms of this Section 20. Fifty percent (50%) of all rent revenue actually received by Tenant from Tenant having subleased a portion of Tenant's Facilities to a Collocator on Tenant's Tower (beyond the initial Collocator on Tenant's Tower) shall be paid by Tenant to Landlord within thirty (30) days of receipt of the same from Tenant. Any agreement to co-locate space on Tenant's Facilities to a Collocator shall be pursuant to a separate agreement between the Collocator and Tenant, and Landlord shall not be a party to and shall have no interest in any such agreement.

20.2. Non-interference. Landlord will not grant, after the Effective Date, any agreement, Lease or any other right to any third party for the use of the Premises if such use may in any way adversely affect or interfere with Tenant's Facilities. If at any time any equipment on the Premises belonging to a subsequent Landlord lessee or tenant causes unacceptable interference to the Tenant Facilities, including any of Tenant's equipment or communications network, in Tenant's and Landlord's mutual reasonable discretion, Tenant may demand that Landlord require the third party to immediately, and without prior notice, shut down, modify, remove, or relocate the equipment at the third party's sole expense until a satisfactory solution is found to rectify such interference, and Landlord shall be responsible for causing said third party to comply with the provisions of this Section 20.2. In the event the interference is not promptly eliminated, Tenant may pursue all remedies available to it at law or in equity and/or may terminate this Lease upon written notice to Landlord.

20.3. Notice to Tenant. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment outside of the Premises.

20.4. Landlord's Right of First Refusal. At such time as Tenant receives an application for collocation from any third party which desires to co-locate on Tenant's Facilities (beyond the initial Collocator), Tenant shall promptly notify Landlord in writing of such application. Landlord shall have the right, but not the obligation, within fourteen (14) days of receiving such written notice from Tenant, to exercise its rights under this Lease to place its own equipment on Tenant's Tower pursuant to Section 20.5 below, by advising Tenant of same in writing. If Landlord fails to respond to Tenant's written notice within fourteen (14) days' receipt thereof, or if Landlord indicates to Tenant in writing that it does not intend to exercise its Right of First Refusal, Tenant shall be free to enter into an agreement with such third-party pursuant to Section 20.1 above and Landlord shall be deemed to have waived its rights with respect to such collocation space on Tenant's Facilities.

20.5. Landlord Use of Tower. If Landlord exercises its Right of First Refusal under Section 20.4 above, Landlord may place certain equipment upon Tenant's Tower at no rental cost to Landlord provided that such equipment shall be placed on the Tower not less than one-hundred eighty (180) days after Landlord has exercised its Right of First Refusal; and further provided:

20.5.1. Landlord's equipment shall be purchased, installed and maintained, at the expense of Landlord, and must be kept and maintained at all times in a good state of repair and maintenance and in compliance with all laws, rules and regulations of any and all governmental authorities. Tenant assumes no responsibility for the licensing, operation or maintenance of the Landlord's equipment.

20.5.2. Landlord shall arrange for and pay for power to its equipment.

20.5.3. If Landlord requires ground space for its equipment, such space shall be located outside of Tenant's Premises.

20.5.4. Landlord agrees not to damage the Premises, the Tower or any personal property or fixtures thereon in any way. Landlord shall be responsible and liable for any such damages.

20.5.5. Installation of any equipment placed upon the tower shall be conditioned upon review and approval of a structural report and completed plans submitted by Tenant, which approval shall not be unreasonably withheld. If Tenant determines that improvements to the Tower are necessary to support Landlord's equipment, then Tenant may condition approval of Landlord's equipment upon completion of such Tower improvements. Any such Tower improvements shall be completed by Tenant, or its contractors, at Landlord's expense.

20.5.6. Landlord agrees that its equipment shall not cause interference to the use or enjoyment of the property of Tenant and other licensees located at the Premises, but not necessarily limited to interference with radio communication facilities. In the event that Landlord's equipment causes such interference to such use or enjoyment, Landlord agrees immediately to cease operations until such interference is removed by Landlord, at its sole expense.

20.5.7. Landlord, at its cost and expense, agrees to relocate Landlord's equipment to another location on the Tower, in the event that the Tenant deems it necessary to use the space for Tenant's own purpose. The site of such relocation shall be by mutual agreement in writing between the Landlord and Tenant.

20.5.8. It is further understood and agreed the Tenant must approve of, in writing, all contractors and personnel chosen by Landlord to install, maintain and operate the equipment, which approval shall not be unreasonably withheld, and that Landlord's maintenance and operation of its system will in no way damage or interfere with the Tenant's use of the tower, antennas and appurtenances.

20.5.9. All installations and operation by Landlord shall meet with all applicable Rules and Regulations of the Federal Communications Commission, Federal Aviation Agency and all applicable codes and regulations of the municipality, county and state concerned. Tenant assumes no responsibility for the licensing, operation, and/or maintenance of Landlord's equipment.

20.5.10. Tenant shall not be liable for injury or damage to any person or property occurring within or on the Premises under use by Landlord unless caused by or resulting from the negligence of the Tenant, its servants, agents or employees.

20.5.11. Maintenance of the Landlord's equipment shall be in accordance with the reasonable standards and requirements of Tenant, and shall be done under Tenant's supervision. Scheduling of any and all work will be coordinated with Tenant.

20.5.12. All of Landlord's equipment mounted on the tower must be attached securely to the tower with approved mounts, hangers, and clamps as directed by Tenant. All

cables and wires entering or exiting equipment buildings must do so in a manner approved by Tenant

21. Insurance.

21.1. Types of Insurance Required. Tenant must procure, prior to beginning any activities on the Premises, and maintain throughout the Term, the following insurance from an insurance company or companies reasonably acceptable to Landlord:

21.1.1. Commercial General Liability insurance with coverage at least as broad as ISO form CG 001 or equivalent in an amount not less than \$2,000,000.00 aggregate covering the Premises and all activities thereon, endorsed to include Pima County as an additional insured.

21.1.2. Commercial Automobile Liability insurance with coverage at least as broad as ISO form CA 001 or equivalent in an amount not less than \$1,000,000.00 for vehicles actually used in the operations at the Premises (i.e., not used for simple commuting).

21.1.3. Workers' Compensation insurance with statutory limits, with Employers' Liability coverage in an amount not less than \$1,000,000 per injury, illness, or disease.

21.1.4. Commercial Property insurance covering the full replacement cost of all improvements on the Premises.

21.2. Certificates. Tenant must provide Landlord with copies of certificates of insurance showing the current status of all insurance policies. Landlord shall be included as an additional insured as their interest may appear on the commercial general liability and automobile liability insurance policies. Copies of such insurance certificates shall bear the Contract Number assigned by County and the Site Location and shall be mailed to:

Pima County Telecom Contracts Administrator
Pima County Real Property Services
201 N. Stone Avenue, 6th Floor
Tucson, AZ 85701-1215

21.3. Waiver of Subrogation. Each party waives and releases its claims and subrogation rights against the other for losses typically covered by property and worker's compensation insurance.

21.4. Changes to Insurance Requirements. Landlord may review and reasonably alter coverage and amount of insurance required hereunder to commercially reasonable amounts as required by other similarly situated landlords in the market of leasing space for wireless communications facilities in Pima County, Arizona, but in no event more than once every five (5) years. Landlord will notify Tenant in writing of any changes to the aforesaid insurance requirements, and Tenant will have one hundred eighty (180) days to comply with the requirements as changed.

21.5. Indemnification. Tenant agrees that, to the fullest extent permitted by law, Tenant will indemnify, defend, and hold harmless Landlord, its officers, employees and agents from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by Landlord as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by Tenant, its agents, employees, invitees or contractors; provided, in no event shall Tenant indemnify, defend and hold harmless Landlord, its officers, employees and agents, from any losses, costs, or expenses (including reasonable attorney fees) incurred by Landlord as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by Landlord, its agents, employees, invitees or contractors. Landlord agrees that, to the fullest extent permitted by law, Landlord will indemnify, defend, and hold harmless Tenant, its officers, employees and agents from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by Tenant as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by Landlord, its agents, employees, invitees or contractors; provided, in no event shall Landlord indemnify, defend and hold harmless Tenant, its officers, employees and agents, from any losses, costs, or expenses (including reasonable attorney fees) incurred by Tenant as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by Tenant, its agents, employees, invitees or contractors.

22. **Default/Termination.**

22.1. Tenant Default. The occurrence of any one or more of the following events beyond the applicable notice and cure period set forth herein will constitute a default and breach of this Lease by Tenant for which Landlord may terminate this Lease:

22.1.1. *Operation of Premises*. The vacating or abandonment of the Premises by Tenant that continues for a period of sixty (60) days after notice of such default is sent by Landlord to Tenant.

22.1.2. *Monetary Obligations*. The failure by Tenant to make any payment required to be made by Tenant under this Lease within thirty (30) days after Tenant's receipt of a written notice of such monetary default.

22.1.3. *Insurance*. The failure by Tenant to maintain insurance policies as required by Section 21 within ten (10) days after Tenant's receipt of a written notice from Landlord, in which event Tenant must immediately cease all operations at the Premises until such insurance is obtained.

22.1.4. *Violation of Law.* Violation of any law by Tenant, or the conduct of any unlawful activities on the Premises that are permitted by Tenant, which continues for a period of thirty (30) days after notice of such default is sent by Landlord to Tenant.

22.1.5. *Health and Safety Violation.* Any action or omission by Tenant that, in Landlord's reasonable judgment, causes a threat to the health or safety of the general public, which continues for a period of fifteen (15) days after notice of such default is sent by Landlord to Tenant.

22.1.6. *Other Covenants.* The failure by Tenant to observe or perform any other of the non-monetary covenants, conditions or provisions of this Lease to be observed or performed by Tenant, that continues for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant will not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

22.2. Landlord Default. Landlord will be deemed to be in default hereunder if Landlord fails to perform any covenant or condition of this Lease to be performed by Landlord and such failure continues for thirty (30) days after written notice and demand from Tenant, unless the failure is of such a character as to require more than thirty (30) days to cure, in which event Landlord will be in default only if it fails to initiate the cure within thirty (30) days, and thereafter diligently pursue the same to completion.

22.3. Remedies.

22.3.1. *All Remedies Available.* Either party may pursue any remedies provided by law and in equity for the breach of this Lease, including termination of the Lease. No right or remedy is intended to be exclusive of any other right or remedy and each will be cumulative and in addition to any other. Notwithstanding the foregoing, neither party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

22.3.2. *Cure by Landlord.* Should Tenant fail to perform in a timely manner any of the covenants or terms of this Lease on its part to be performed, Landlord may (but is not obligated to), following written notice to Tenant and failure by Tenant to remedy the situation in accordance with the cure periods set forth in this Lease, perform the same and charge Tenant for the costs thereof, together with interest thereon, at the rate set by statute for interest on judgments, from the date upon which the expense is incurred until paid by Tenant; provided, however, Landlord shall not be entitled to ever maintain, repair or remove Tenant's Facilities.

23. **Surrender of Premises/Holding Over.** Within the ninety (90) day removal period as provided in Section 14.2 of this Lease, Tenant must quit and surrender the Premises in good condition and repair, normal wear and tear excepted. Any holding over with the consent of

Landlord after the expiration of the removal period or earlier termination of the Lease will be construed to be a tenancy from month-to-month upon the same terms and conditions as provided in this Lease, to the extent applicable. Tenant's obligations under this Section 23 will survive the expiration or earlier termination of the Term of this Lease.

24. Assignment or Subletting.

24.1. Any sublease, license or assignment of this Lease that is entered into by Landlord or Tenant shall be subject to the provisions of this Lease. Notwithstanding the foregoing, and except as expressly provided in this Lease to the contrary with respect to any Collocator(s), Tenant may not assign, or otherwise transfer, all or any part of its interest in this Lease or in the Premises without the prior written consent of Landlord, which shall not unreasonably be withheld, conditioned or delayed; provided, this Lease may be sold, assigned or transferred by the Tenant without any approval or consent of the Landlord (a) to the Tenant's principal, affiliates, subsidiaries of its principal, (b) to any entity which acquires all or substantially all of Tenant's assets in the market defined by the Federal Communications Commission in which the Premises is located by reason of a merger, acquisition or other business reorganization, or (c) to any entity in which Chad Ward and Benjamin Feldman are members, partners or shareholders. Landlord may assign this Lease in its entirety to any third party in conjunction with a sale of the property of which the Premises is a part in accordance with Section 19 of this Lease. Any assignment by Landlord shall provide that the assignee assumes all of Landlord's obligations under this Lease, and Tenant shall be provided with written notice of such assignment within a reasonable period of time thereafter. This Lease shall be binding on and inure to the benefit of the successors and permitted assignees of Landlord and Tenant.

24.2. Notwithstanding the foregoing, Tenant may mortgage or grant a security interest in this Lease and Tenant's Facilities, and may assign this Lease and Tenant's Facilities to any mortgagees or holders of security interests of Tenant's Facilities including their successors and assigns (collectively, "**Secured Parties**"). If requested by Tenant, Landlord will execute such consent to such financing as may reasonably be required by Secured Parties. In addition, if requested Tenant, Landlord agrees to notify Tenant and Tenant's Secured Parties simultaneously of any default by Tenant and to give Secured Parties the same right to cure any default as Tenant. If a termination, disaffirmance or rejection of this Lease by Tenant pursuant to any laws (including any bankruptcy or insolvency laws) occurs, or if Landlord will terminate this Lease for any reason, Landlord will give to Secured Parties prompt notice thereof and Secured Parties will have the right to enter upon the Premises during a 30-day period commencing upon Secured Parties' receipt of such notice for the purpose of removing all or any of Tenant's Facilities. Landlord acknowledges that Secured Parties are third-party beneficiaries of this Lease.

25. Condition of Land; Quiet Enjoyment.

25.1. No Warranty. Tenant acknowledges that it is fully familiar with the physical condition of the Premises and has received the same in good order and condition. LANDLORD MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE CONDITION OR STATE OF THE PREMISES OR ITS FITNESS OR AVAILABILITY FOR ANY PARTICULAR USE, AND LANDLORD IS NOT LIABLE FOR ANY LATENT OR PATENT DEFECT THEREIN. Tenant's use of the Premises is subject to all existing easements, rights-of-way and set-backs existing as of the date of this Lease.

25.2. Quiet Enjoyment. Landlord covenants and agrees with Tenant that Tenant may peacefully and quietly enjoy the Premises, provided that Tenant is not in default under this Lease after notice and expiration of all cure periods.

26. Environmental.

26.1. Landlord represents and warrants that to the best of its knowledge the Premises has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Premises.

26.2. Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) the indemnifying party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Premises and activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

26.3. The indemnifications of this Paragraph specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Premises conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph will survive the expiration or termination of this Lease.

26.4. In the event Tenant becomes aware of any hazardous materials on the Premises, or any environmental or industrial hygiene condition or matter relating to the Premises that, in Tenant's sole determination, renders the condition of the Premises unsuitable for Tenant's use, or if Tenant believes that the leasing or continued use of the leasing of the Premises would expose Tenant to undue risks of government action, intervention or third-party liability, and provided that Tenant is not responsible for, in whole or in part, directly or indirectly, any such condition, then Tenant will have the right, in addition to any other rights it may have at law or in equity, to immediately terminate this Lease upon delivery of notice to Landlord.

27. Sustainability Plan. Tenant shall endeavor to operate Tenant's Facilities in accordance with the County's Sustainability Plan; provided, the parties understand that Tenant shall not be required to use recycled materials for its improvements.

28. Notice. Whenever in this Lease it shall be required that notice or demand be given or served by either party, the notice or demand shall be in writing and shall be delivered by registered or certified mail, postage prepaid, or by commercial courier, provided the courier's

regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows:

If to Landlord: Manager, Pima County Real Property Services
201 N. Stone Ave., 6th Floor
Tucson, AZ 85701-1215

With a copy to: Director, Pima County Attractions and Tourism
130 West Congress, Suite 505
Tucson, AZ 85701

If to Tenant: T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attention: Lease Compliance/PH35368A

If mailed, all such notices, demands, requests, or other communications shall be deemed received upon receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. Any party entitled to notices hereunder may from time to time designate to the other parties, in writing and given in accordance with this Section, a different address for service of notice.

29. Representations and Warranties of Landlord. Landlord represents and warrants to Tenant and Tenant's successors and assigns that:

29.1. Landlord has the full right, power, and authority to execute this Lease;

29.2. There are no pending or threatened administrative actions, including bankruptcy or insolvency proceedings under state or federal law, suits, claims or causes of action against Landlord or which may otherwise affect the Premises;

29.3. The Premises is not presently subject to an option, lease or other contract which may adversely affect Landlord's ability to fulfill its obligations under this Lease, and the execution of this Lease by Landlord will not cause a breach or an event of default of any other agreement to which Landlord is a party. Landlord agrees that it will not grant an option or enter into any contract or agreement which will have any adverse effect on Tenant's intended use or Tenant's rights under this Lease.

29.4. No licenses, rights of use, covenants, restrictions, easements, servitudes, subdivision rules or regulations, or any other encumbrances relating to the Premises prohibit or will interfere with Tenant's intended use;

29.5. Landlord has good and marketable fee simple title to Premises and any other property across which Landlord may grant an easement to Tenant, free and clear of all liens and encumbrances.

29.6. Tenant will at all times during this Lease enjoy ingress, egress, and access from the Premises twenty-four (24) hours a day, seven (7) days a week, three hundred sixty five (365) days a year, to an open and improved public road which is adequate to service Tenant's Facilities; and

29.7. These representations and warranties of Landlord survive the termination or expiration of this Lease.

30. Miscellaneous.

30.1. Governing Law. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Lease, and any disputes hereunder. Any action relating to this Lease shall be brought and maintained in a court of the State of Arizona in Pima County. The prevailing party in any litigation arising hereunder is entitled to its reasonable attorney's fees and court costs, including appeals, if any.

30.2. Authority. Each of the Parties represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Lease.

30.3. Entire Agreement. This Lease is intended by the parties as the final expression of the parties with respect to the subject matter hereof and supersedes any prior or written or oral agreements.

30.4. Severability. Each provision of this Lease stands alone, and any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.

30.5. Conflict of Interest. This Lease is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Lease on behalf of Landlord or Tenant is, at any time while this Lease or any extension of the Lease is in effect, an employee or agent of any other party to the Lease with respect to the subject matter of the Lease.

30.6. Lease of Real Property. Landlord further recognizes that this Lease is a lease of real property under which Tenant, in addition to all rights and privileges it receives herein, is entitled to all rights and protections under 11 U.S.C. § 365(h), as amended from time to time.

30.7. Binding Effect. This Lease shall run with the Premises and shall be binding upon and inure to the benefit of Landlord and Tenant, and their respective successors and assigns.

30.8. Interpretation of Lease. The parties acknowledge that each has had the opportunity to review this Lease with counsel of its or their choice. This Lease will not be construed in favor or against either of the parties but will be interpreted fairly and equitably to effectuate the intent of the parties. Each party agrees to furnish to the other, within thirty (30) days after request, such estoppel information as the other may reasonably request.

30.9. Further Acts. Within fifteen (15) days after receipt of a written request from Tenant, Landlord will execute any document necessary or useful to protect Tenant's rights under this Lease or to facilitate Tenant's intended use including documents related to title, zoning and

other Governmental Approvals, and will otherwise cooperate with Tenant in its exercise of its rights under this Lease. In the event that Landlord fails to execute any such document(s), as required by this Lease, within fifteen (15) days following receipt of a written request from Tenant, such document(s) will be deemed consented to and approved by Landlord, and, in addition to any and all rights and remedies set forth in this Lease, Tenant shall additionally have the right to pursue any and all rights and remedies that it may have at law or in equity.

30.10. Landlord Waiver of Liens. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, in and to Tenant's Facilities or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws.

30.11. Tenant Not an Agent of Landlord. Tenant is not an agent of Landlord for any purpose under this Lease or otherwise. Tenant will control activities on the Premises, and Landlord will not control those activities. Tenant's employees and servants will not be under the control of Landlord.

30.12. Non-Discrimination. Tenant agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this Lease as if set forth in full herein including flow down of all provisions and requirements to any subcontractors. During the performance of this Lease, Tenant shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

30.13. Amendment. This Lease may not be amended except by a written instrument duly executed by both parties.

30.14. Memorandum. Landlord agrees to execute a Memorandum of this Lease which Tenant may record with the appropriate recording officer. The date set forth in the Memorandum is for recording purposes only and bears no reference to commencement of either the Term or Base Rent payments.

30.15. Exhibits. The following Exhibits to this Lease are fully incorporated herein as if set forth at length:

<u>Exhibit A</u>	Description of Premises
<u>Exhibit B</u>	Description of Access and Utility Easements on Premises
<u>Exhibit C</u>	Plans

The Parties have executed this Lease as of the dates set forth below.

Landlord: PIMA COUNTY, a political subdivision of the State of Arizona:

Richard Elias, Chairman, Board of Supervisors

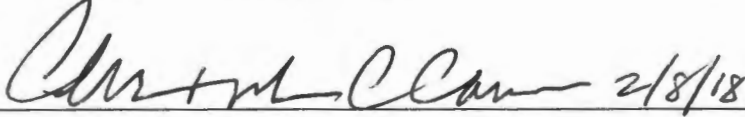
Date

ATTEST:

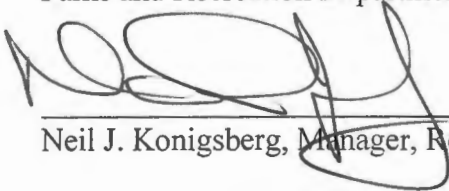
Julie Castaneda, Clerk of Board

Date

APPROVED AS TO CONTENT:

 2/8/18

Chris Cawein, Director, Pima County Natural Resources
Parks and Recreation Department



Neil J. Konigsberg, Manager, Real Property Services

APPROVED AS TO FORM:

 2/8/18

Tobin Rosen, Deputy County Attorney, Civil Division

**Tenant: T-Mobile West LLC,
a Delaware Limited Liability Company**

By: _____ 

Daniel Bazerman
Area Director, Network Engineering & Ops
MountainWest/SouthWest

_____ 1/23/18
Date

Its: _____

Date


Approved on its Face - Legal

Mark E. Hanks

Exhibit A
Description of Premises

TENANT LEASE AREA LEGAL DESCRIPTION

LEASE AREA LEGAL DESCRIPTION

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 14 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19:

THENCE SOUTH 00 DEGREES 35 MINUTES 01 SECONDS EAST ALONG THE WEST LINE THEREOF, 561.69 FEET;
THENCE DEPARTING SAID SECTION LINE, NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 45.00 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 194.30 FEET;
THENCE SOUTH 82 DEGREES 21 MINUTES 47 SECONDS EAST, 110.88 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 66.54 FEET;
THENCE NORTH 78 DEGREES 56 MINUTES 40 SECONDS EAST, 60.75 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 57.30 FEET;
THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 41.96;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 44.29 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 14.62 FEET;
THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 79.73 FEET;
THENCE NORTH 56 DEGREES 52 MINUTES 25 SECONDS EAST, 39.92 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 80.94 FEET;
THENCE SOUTH 08 DEGREES 52 MINUTES 00 SECONDS EAST, 101.40 FEET;
THENCE SOUTH 79 DEGREES 37 MINUTES 38 SECONDS EAST, 12.98 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 10 DEGREES 22 MINUTES 22 SECONDS EAST, 15.00 FEET;
THENCE SOUTH 79 DEGREES 37 MINUTES 38 SECONDS EAST, 20.00 FEET;
THENCE SOUTH 10 DEGREES 22 MINUTES 22 SECONDS WEST, 30.00 FEET;
THENCE NORTH 79 DEGREES 37 MINUTES 38 SECONDS WEST, 20.00 FEET;
THENCE NORTH 10 DEGREES 22 MINUTES 22 SECONDS EAST, 15.00 FEET TO THE POINT OF BEGINNING.

AN AREA CONTAINING 600 SQ. FT.

Exhibit B
Description of Access and Utility Easements on Premises

TENANT ACCESS AND UTILITY EASEMENT LEGAL DESCRIPTION

Page 1 of 2

ACCESS EASEMENT LEGAL DESCRIPTION

AN ACCESS EASEMENT SITUATED IN THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 14 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19:

THENCE SOUTH 00 DEGREES 35 MINUTES 01 SECONDS EAST ALONG THE WEST LINE THEREOF, 561.69 FEET;
THENCE DEPARTING SAID SECTION LINE, NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 45.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF A 12.00 FOOT WIDE ACCESS EASEMENT LYING 6.00 FEET OF EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 194.30 FEET;
THENCE SOUTH 82 DEGREES 21 MINUTES 47 SECONDS EAST, 110.88 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 66.54 FEET;
THENCE NORTH 78 DEGREES 56 MINUTES 40 SECONDS EAST, 60.75 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 57.30 FEET;
THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 41.96 TO THE POINT OF TERMINUS OF SAID 12.00 FOOT WIDE EASEMENT AND BEING THE POINT OF BEGINNING OF A 5.00 FOOT WIDE ACCESS EASEMENT, LYING 2.50 FEET OF EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 44.29 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 14.62 FEET;
THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 79.73 FEET;
THENCE NORTH 56 DEGREES 52 MINUTES 25 SECONDS EAST, 39.92 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 80.94 FEET;
THENCE SOUTH 08 DEGREES 52 MINUTES 00 SECONDS EAST, 101.40 FEET;
THENCE SOUTH 79 DEGREES 37 MINUTES 38 SECONDS EAST, 12.98 FEET TO THE POINT OF TERMINUS OF SAID 5.00 FOOT WIDE EASEMENT.

Exhibit B
Description of Access and Utility Easements on Premises

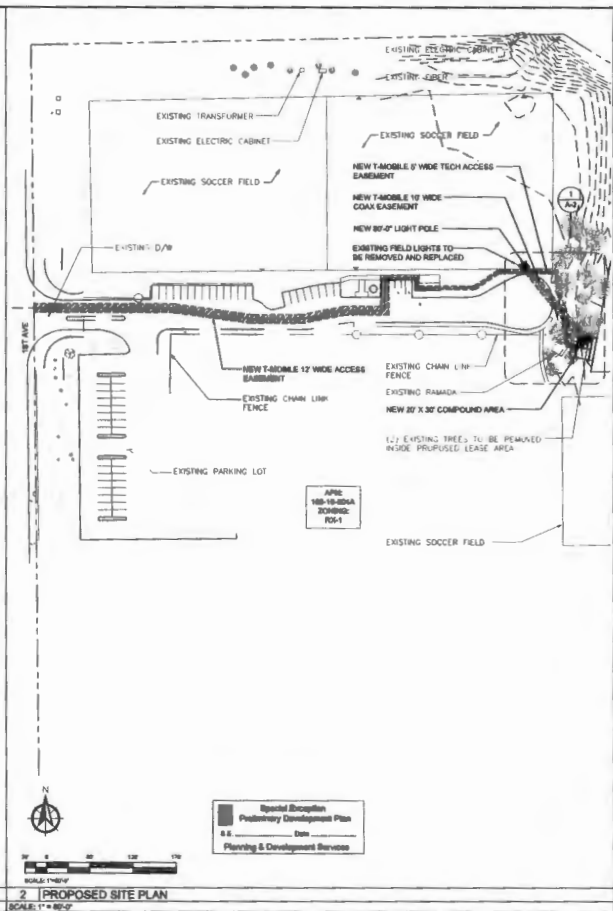
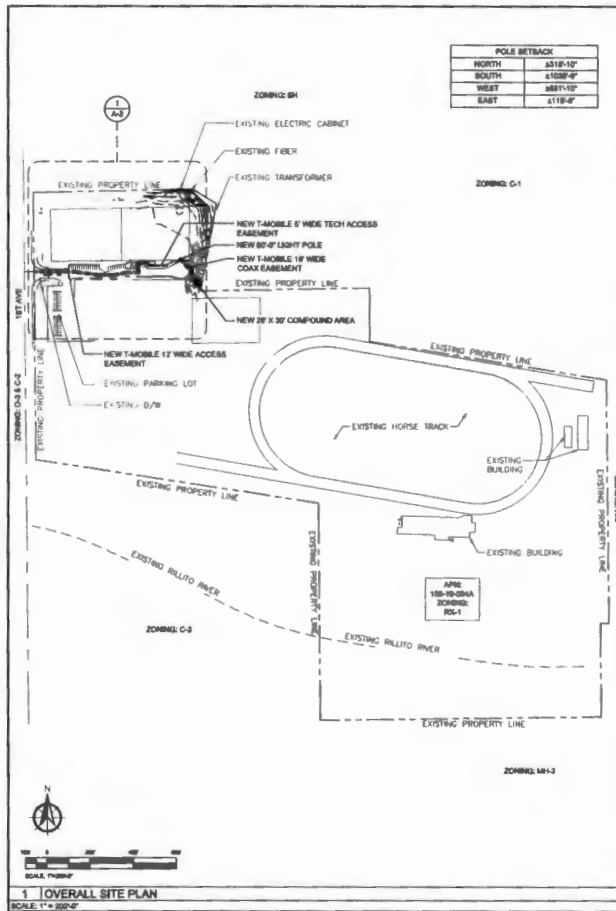
TENANT ACCESS AND UTILITY EASEMENT LEGAL DESCRIPTION

Page 2 of 2

COAX EASEMENT LEGAL DESCRIPTION

A 10.00 FOOT WIDE COAX EASEMENT SITUATED IN A PART OF THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 14 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19:
THENCE SOUTH 00 DEGREES 35 MINUTES 01 SECONDS EAST ALONG THE WEST LINE THEREOF, 561.69 FEET;
THENCE DEPARTING SAID SECTION LINE, NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 45.00 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 194.30 FEET;
THENCE SOUTH 82 DEGREES 21 MINUTES 47 SECONDS EAST, 110.88 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 66.54 FEET;
THENCE NORTH 78 DEGREES 56 MINUTES 40 SECONDS EAST, 60.75 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 57.30 FEET;
THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 41.96;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 44.29 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 14.62 FEET;
THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 79.73 FEET;
THENCE NORTH 56 DEGREES 52 MINUTES 25 SECONDS EAST, 39.92 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 80.94 FEET;
THENCE SOUTH 08 DEGREES 52 MINUTES 00 SECONDS EAST, 101.40 FEET;
THENCE SOUTH 79 DEGREES 37 MINUTES 38 SECONDS EAST, 12.98 FEET;
THENCE NORTH 10 DEGREES 22 MINUTES 22 SECONDS EAST, 15.00 FEET;
THENCE SOUTH 79 DEGREES 37 MINUTES 38 SECONDS EAST, 2.70 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF SAID COAX EASEMENT, LYING 5.00 FEET OF EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:
THENCE NORTH 39 DEGREES 07 MINUTES 37 SECONDS WEST, 126.17 FEET TO THE POINT OF TERMINUS, SIDELINES WILL TERMINATE OR PROLONGATE TO LEASE PREMISE.



T-Mobile
3600 S PLAZA DRIVE SUITE 400
TUCSON, AZ 85710

PROJECT INFORMATION
SITE NAME:
RILLITO REGIONAL PARK
SITE ID:
PH35368A
4502 N. 1ST AVE, TUCSON
AZ 85718
PIMA COUNTY

Rev	Date	Description	By
1	08/19/17	PRELIM 2D/3D	CH
2	08/17/17	PRELIM 2D/3D	CH
3	8/28/17	96% 2D/3D	CH
4	10/19/17	100% 2D/3D	JK

PLANS PREPARED BY:
CENTERLINE
CNS
Addressing Market Needs
4000 EAST SILVERWOOD STREET SUITE 117
PHOENIX, AZ 85044
602-955-4455
WWW.CENTRALINERESOLUTION.COM

LICENSE NO. 101

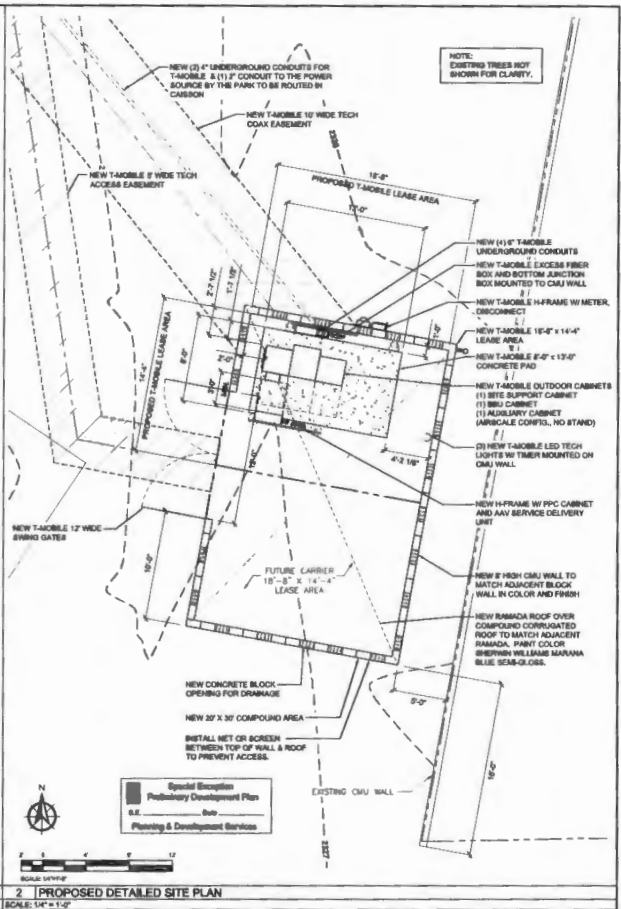
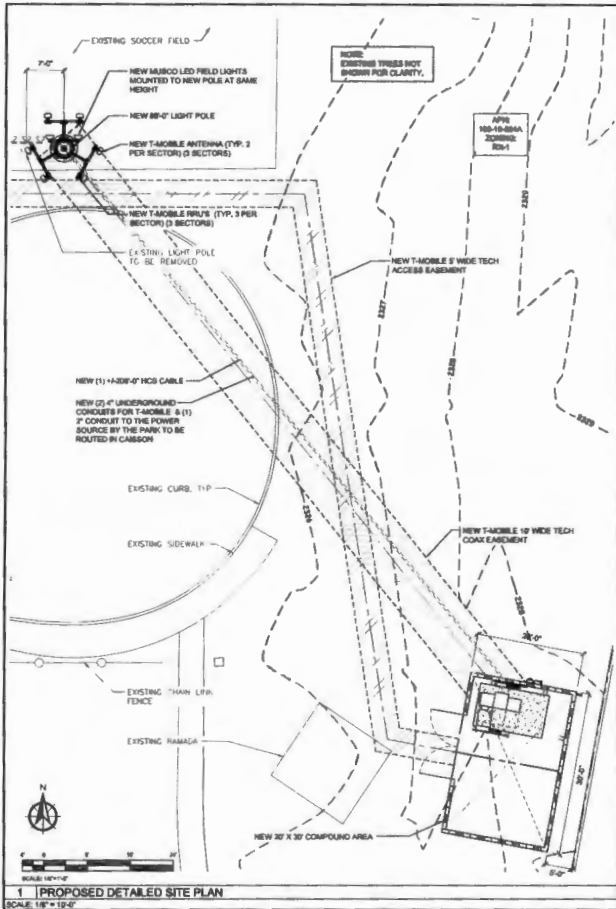
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DRAWN BY: CHK BY: APV BY:
CH CH JK

Sheet Title:
**OVERALL SITE PLAN
& PROPOSED SITE
PLAN**

Sheet Number:
A-1

EXHIBIT C



T-Mobile
3625 S PLAZA DRIVE SUITE 400
TULSA, AZ 85022

PROJECT INFORMATION
SITE NAME:
RELITO REGIONAL PARK
SITE ID:
PH35368A
4502 N. 1ST AVE, TUCSON
AZ 85718
PIMA COUNTY

Rev:	Date:	Description:	By:
1	08/13/17	PRELIM ZDS	CH
2	08/17/17	PRELIM ZDS	CH
3	9/25/17	90% ZDS	CH
4	10/31/17	100% ZDS	JC

PLANS PREPARED BY:
CENTERLINE
Advancing Wireless Networks
4638 EAST B. WOOD STREET SUITE #7
PHOENIX, AZ 85044
WWW.CENTERLINE-SOLUTIONS.COM

LEGEND NO:
ALL SCALES ARE SET FOR THIS SHEET
DRAWN BY: CHK BY: APPV BY:
CH CH KB
Sheet Title:

PROPOSED DETAILED SITE PLAN

Sheet Number:
A-2



3255 S PLAZA DRIVE SUITE 400
TAMPA, AZ 8352

PROJECT INFORMATION

SITE NAME:
RELLITO REGIONAL PARK
SITE ID:
P193366A
4502 N. 1ST AVE, TUCSON
AZ 85718
PIMA COUNTY

Rev	Date	Description	By
1	08/13/17	PRELIM 2D/6	CH
2	08/17/17	PRELIM 2D/6	CH
3	9/25/17	9/26 2D/6	CH
4	10/13/17	10/26 2D/6	JC

PLANS PREPARED BY:

CENTERLINE
Advancing Wireless Networks
4528 EAST BLUEWOOD STREET SUITE #7
PHOENIX, AZ 85044
602-988-6600
WWW.CENTELINE.SOLUTIONS.COM

LICENSE NO.:

ALL SCALES ARE SET FOR 24"X36" SHEET

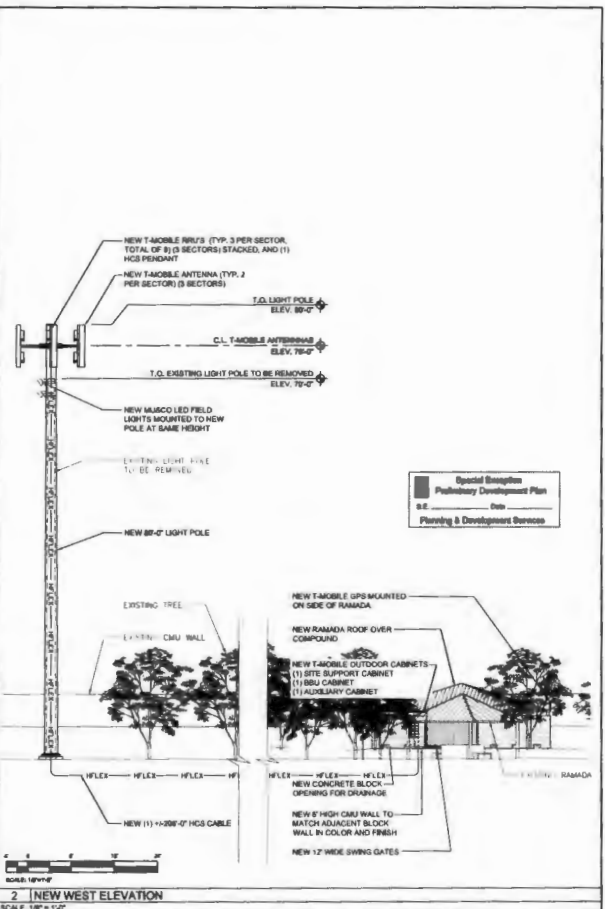
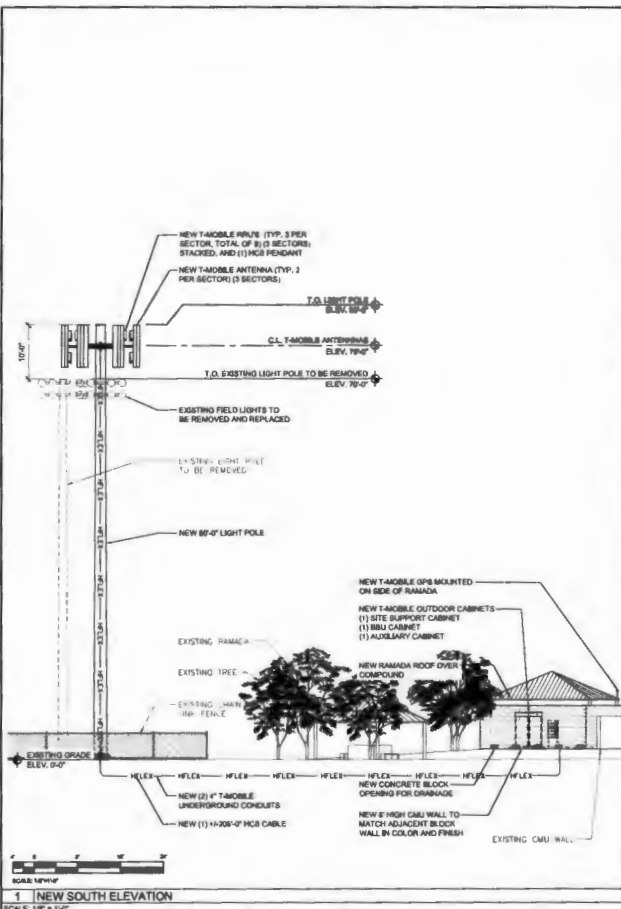
DRAWN BY:	CHK BY:	APPV BY:
CH	CH	KR

Sheet Title:

PROPOSED ELEVATIONS

Sheet Number:

A-3



Special Occupancy
Preliminary Development Plan
S.E. This
Planning & Development Services