

Market: Los Angeles
Venue Name: Long Beach Civic Center
Fixed Asset Number: 14820890
Contract ID: 256080.C

IN-BUILDING EQUIPMENT AGREEMENT

35305

THIS IN-BUILDING EQUIPMENT AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by The City of Long Beach, a Municipal corporation having a mailing address of 411 W. Ocean Blvd., Long Beach CA 90802 ("**City**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blve NE, 3rd Floor, Atlanta, GA 30319 ("**AT&T**").

BACKGROUND

City has the legal right to occupy the premises of , located at 411 and 415 W. Ocean Blvd., City of Long Beach, in the County of Los Angeles, State of California (collectively the "**Property**"). AT&T desires to use a portion of the Property in connection with their respective federally licensed communications business. City desires to grant to AT&T the right to use a portion of the Property in accordance with this Agreement. City has installed and owns, or will install and own, a distributed antenna system (as same may be expanded, altered or modified from time to time, the "**DAS**") which is intended to carry the signals of AT&T as well as other wireless carriers within the "**Coverage Area**" (as depicted on the attached **Exhibit 1**) of the Structure. AT&T shall have the right to connect AT&T's Communication Facility (as defined below) to the DAS, but the DAS shall be entirely owned, operated, monitored, maintained and repaired by City.

The parties agree as follows:

1. **INCORPORATION OF RECITALS.** The recitals set forth above are incorporated herein as set forth in their entirety.
2. **USE OF PREMISES.** City agrees to provide to AT&T approximately 22 square feet of floor space and other space in areas located throughout the Structure for the placement of AT&T's radio and other equipment as described on the attached **Exhibit 2**, or space in such other locations as City and AT&T shall mutually approve after good faith consultation, which locations are deemed sufficient in AT&T's sole determination for the placement and operation of AT&T's equipment (the "**Equipment Space**"). Additionally, City grants during the Term (as defined in Section 4 below) a non-exclusive license over, under, along and through the Property (including the Structure) in locations reasonably determined necessary by AT&T, from time to time, to install, maintain, repair, replace and remove conduits, wires, cables, cable trays and other necessary connections between the Equipment Space and the electric power, telephone and/or fuel sources on the Property (collectively the "**Connections**"). The Equipment Space and the space occupied by the Connections are hereinafter collectively referred to as the "**Premises**", as described on attached **Exhibit 2**.
3. **PERMITTED USE.** (a) AT&T may use the Premises to connect to and use the DAS which shall carry the signal of AT&T as well as other wireless carriers throughout the Coverage Area, and for the installation, construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements as may be needed by AT&T from time to time to fully provide for the continuous transmission and reception of communications signals, which may include equipment cabinets, fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "**Communication Facility**"); and AT&T further has the right to conduct tests the Property (as described in Section 6(b) at no additional cost to AT&T or City, (collectively, the "**Permitted Use**"). City and AT&T agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 2** will not be deemed to limit AT&T's Permitted Use. If **Exhibit 2** includes drawings of the initial installation of the Communication Facility,

Long Beach Civic Center

City's execution of this Agreement will signify City's approval of **Exhibit 2**. If **Exhibit 2** is not included, such plans and drawings shall be provided to City and City will approve such drawings within fifteen (15) days after receipt from AT&T, such approval to be not unreasonably withheld, delayed, or conditioned. City grants to AT&T (and its subAT&Ts and sublicensees, as applicable) the right to use such portions of City's contiguous, adjoining or surrounding property (the "**Surrounding Property**") as may reasonably be required during construction and installation of the Communication Facility. AT&T has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, and to make Property improvements, alterations, upgrades or additions appropriate for AT&T's use ("**AT&T Changes**"). AT&T agrees to comply with all applicable governmental laws, rules, statutes and regulations relating to its use of the Communication Facility on the Property. AT&T has the right to modify, supplement, replace, expand the equipment or relocate the Communication Facility within the Premises at any time during the term of this Agreement. In the event AT&T desires to modify, replace, or upgrade the Communication Facility, and AT&T requires an additional portion of the Property (the "**Additional Premises**") for such modification, replacement or upgrade, City agrees to provide to AT&T the Additional Premises, upon the same terms and conditions set forth herein. City agrees to take such actions and enter into and deliver to AT&T such documents as AT&T reasonably requests in order to effectuate and memorialize its rights to use the Additional Premises to AT&T.

(b) City shall have the right, at its sole cost and expense, to propose any alteration, upgrade or expansion of the DAS (collectively, a "**DAS Change**") from time to time during the Term. City agrees that it will not undertake any DAS Change which could in any way, in AT&T's reasonable judgment, materially and adversely affect or interfere with (i) AT&T's Communication Facility, the operations of AT&T, the rights or costs of AT&T under this Agreement, or (ii) the Coverage Area. If a DAS Change will not adversely affect or interfere with AT&T in any way as described above, then City may undertake the DAS Change, at City's sole expense. Prior to undertaking any allowed DAS Change, City shall provide at least ninety (90) days written notice to AT&T and all other wireless providers utilizing the DAS prior to implementation of the proposed DAS Change, and City shall make personnel available at the Structure to discuss the proposed DAS Change with the users of the DAS, including AT&T, and otherwise undertake the DAS Change in strict accordance with this Agreement.

(c) At any time during the Term at the request of AT&T, City will make personnel available to meet and discuss with AT&T at no additional cost to AT&T, any suggested DAS Change which AT&T deems desirable to ensure or improve the future capacity, coverage or performance needs of AT&T's Communication Facility or communications services, or otherwise benefit the operations of AT&T (a "**AT&T Requested DAS Change**"). City will promptly implement any AT&T Requested DAS Change, within thirty (30) days of City's receipt of AT&T's written request, if all the following conditions are met: (i) the AT&T Requested DAS Change will not interfere with the use of the DAS by other existing users, or other equipment in the Structure at the time of AT&T's request; (ii) the AT&T Requested DAS Change is technically and physically possible, and legally permissible; (iii) the AT&T Requested DAS Change will not increase costs and expenses to AT&T, or other existing DAS users, or the Structure, that are not agreed to be borne by such affected parties; and (iv) AT&T shall pay for such AT&T Requested DAS Change at City's reasonable actual cost.

(d) City agrees that no DAS Change or AT&T Requested DAS Change will result in any additional monthly rent or other fee or form of compensation due from AT&T to City under this Agreement in consideration of the rights granted hereunder. City shall be responsible for any increase in taxes attributable to any DAS Change or AT&T Requested DAS Change.

4. TERM.

(a) The initial term of this Agreement will be ten (10) years ("**Initial Term**"), commencing on the Effective Date. The Initial Term will terminate on the tenth (10th) anniversary of the Effective Date.

(b) This Agreement will automatically renew for two (2) additional five (5) year term(s) (each five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions unless AT&T notifies City in writing of AT&T's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the then existing Term.

(c) If, at least sixty (60) days prior to the end of the final Extension Term, either City or AT&T has not given the other written notice of its desire that the term of this Agreement end at the expiration of the final Extension Term, then upon expiration of the final Extension Term this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. If AT&T remains in possession of the Premises after the termination of this Agreement, then AT&T will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the Term ("**Term**").

5. **RENT.**

In consideration of AT&T's installation of AT&T's Equipment, which the parties acknowledge and agree constitutes a substantial capital investment by AT&T, there shall be no use fee or use fee equivalent due from AT&T to City.

6. **APPROVALS.**

(a) City agrees that AT&T's ability to use the Premises is contingent upon the suitability of the Premises and Property for AT&T's Permitted Use and AT&T's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by AT&T for its use of the Premises, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"). City authorizes AT&T to prepare, execute and file all required applications to obtain Government Approvals for AT&T's Permitted Use under this Agreement and agrees to reasonably assist AT&T with such applications and with obtaining and maintaining the Government Approvals. In addition, AT&T shall have the right to initiate the ordering and/or scheduling of necessary utilities.

(b) AT&T may also perform and obtain, at AT&T's sole cost and expense, tests or reports on, over, and under the Property, necessary to determine if AT&T's use of the Premises is compatible with AT&T's engineering specifications, system, design, operations or Government Approvals.

7. **TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days' prior written notice, if the other party remains in default under Section 16 of this Agreement after the applicable cure periods;

(b) by AT&T upon written notice to City, if AT&T is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by AT&T; or if AT&T determines, in its sole discretion, that the cost of obtaining or retaining the same is commercially unreasonable; or

(c) by AT&T upon written notice to City for any reason or no reason, at any time prior to commencement of construction by AT&T.

8. **INSURANCE.** During the Term, AT&T will carry, at its own cost and expense, the following insurance in full force during the Term of this Agreement:

(a) **Commercial General Liability Insurance.** AT&T shall carry commercial general liability insurance covering all operations by or on behalf of AT&T for personal injury and damage to property (including the loss of use thereof), including broad form property damage and explosion, collapse and underground hazards, and products and completed operations coverage. Limits of liability shall be in amounts of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate. City shall be named as an additional insured by endorsement. City's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by AT&T, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of City, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising

out of the gross negligence of City, its employees, agents or independent contractors; and, (iii) not exceed AT&T's indemnification obligation under this Agreement, if any.

(b) **Workers' Compensation and Employer's Liability Insurance.** AT&T shall maintain workers' compensation insurance as mandated by state law where the Property is located for all AT&T employees. AT&T shall maintain employer's liability insurance in an amount of One Million Dollars (\$1,000,000). To the extent allowed by law this policy shall be endorsed with a waiver of the insurer's right of subrogation against the City and its officials, employees, and agents.

(c) **Automobile Insurance.** If vehicles will be used in AT&T's performance under this Agreement AT&T shall maintain commercial automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The amount of coverage shall be One Million Dollars (\$1,000,000) combined single limit for each accident and for bodily injury and property damage.

(d) **Commercial Property and Builder's Risk Insurance.** AT&T shall carry "all risks" or "special causes of loss" property insurance on its personal property, including but not limited to the AT&T's Equipment, in an amount sufficient to repair or replace such property.

(e) **Umbrella/Excess Insurance.** AT&T shall maintain an umbrella/excess insurance policy providing coverage in excess of its primary commercial general liability, automobile liability and employer's liability policies in an amount of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) general aggregate. City shall be named as an additional insured by endorsement. City's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by AT&T, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of City, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of City, its employees, agents or independent contractors; and, (iii) not exceed AT&T's indemnification obligation under this Agreement, if any. AT&T may use any combination of primary and excess insurance to meet the total limits required.

(f) **Certificates of Insurance.** Certificates of insurance and required endorsements, as evidence of the insurance required by this Agreement, shall be furnished by AT&T to City before any access to the Property or construction is commenced by AT&T, its agents or contractors and annually upon renewal thereafter. Licensee will provide at least 30 days advance written notice to Additional Insured of cancellation or non-renewal of any required coverage that is not replaced.

(g) **Insurer Qualifications.** All of the above-required insurance coverages/policies shall be written by insurance companies eligible to issue policies in the state where the Property is located and with an A.M Best rating of no less than A-.

(h) **Waiver of Subrogation.** City and AT&T hereby mutually release each other (and their directors, officers, employees, agents, successors or assigns) from liability and waive all right of recovery against the other for any loss or damage; (i) covered by their respective first party property insurance policies for all perils insured there under, (ii) within any deductible or self-insured retention, or (iii) in excess of the applicable limits of such policy or policies, it being the intent of the Parties that each shall look solely to its own insurance to protect itself from loss to its own property. In the event of such insured loss, neither Party's insurance company shall have a subrogated claim against the other.

(i) **Self-Insurance.** Notwithstanding the forgoing, AT&T may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event AT&T elects to self-insure its obligation under this Agreement to include City as an additional insured, the following conditions apply: (i) City shall promptly and no later than thirty (30) days after notice thereof provide AT&T with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide AT&T with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) City shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of AT&T; and (iii) City shall fully cooperate with AT&T in the defense of the claim, demand, lawsuit, or the like.

9. INTERFERENCE.

(a) Where there are existing radio frequency user(s) on the Property, City will provide AT&T, upon execution of this Agreement, with a list of all existing radio frequency user(s) on the Property to allow AT&T to

evaluate the potential for interference. AT&T warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Property so disclosed by City, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations, manufacturer's specifications, and standards.

(b) City will not grant, after the date of this Agreement, 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 Communication Facility, the operations of AT&T or the rights of AT&T under this Agreement.

(c) City will not use, nor will City permit its employees, AT&Ts, licensees, invitees, agents or independent contractors to use, any portion of the Property or DAS in any way which interferes with the Communication Facility, the operations of AT&T or the rights of AT&T under this Agreement. City will cause such interference to cease within forty-eight (48) hours after receipt of notice of interference from AT&T. In the event any such interference does not cease within the aforementioned cure period, then: (i) the parties acknowledge that AT&T will suffer irreparable injury, and therefore, AT&T will have the right, in addition to any other rights that it may have at law or in equity, for City's breach of this Agreement, to elect to enjoin such interference or to terminate this Agreement upon notice to City, and (ii) City shall cause the interfering party to cease operations, except intermittently during off-peak hours for testing purposes.

(d) For the purposes of this provision, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic, physical or obstruction interference with, or degradation of, the communications signals to and/or from the Communication Facility.

10. INDEMNIFICATION.

(a) AT&T shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("**Indemnified Parties**"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including reasonable attorneys' fees, court costs, reasonable expert and witness fees, and other reasonable costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) AT&T's breach or failure to comply with any of its obligations contained in this Agreement, including any obligations arising from the AT&T's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 et seq. or (2) negligent or willful acts, errors, omissions or misrepresentations committed by AT&T, its officers, employees, agents, subcontractors, or anyone under AT&T's control, in the performance of work or services under this Agreement (collectively "**Claims**" or individually "**Claim**").

(b) In addition to AT&T's duty to indemnify, AT&T shall have a separate and wholly independent duty to defend Indemnified Parties, at AT&T's expense, by legal counsel reasonably approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of AT&T shall be required for the duty to defend to arise. City shall notify AT&T of any Claim, shall tender the defense of the Claim to AT&T, and shall assist AT&T, as may be reasonably requested, in the defense.

(c) If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, AT&T's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.

(d) The provisions of this Section shall survive the expiration or termination of this Agreement.

11. WARRANTIES.

(a) AT&T and City each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) City represents, warrants and agrees that: (i) , City has the legal right to occupy the Premises; (ii) as long as AT&T is not in default then City grants to AT&T the right to use the Premises for the purpose described in

Section 3 and the quiet use, enjoyment and possession thereof; and (iii) City has obtained all consents and approvals necessary to enter into this Agreement and to grant AT&T the rights hereunder.

(c) **AT&T MAKES NO EXPRESS WARRANTY REGARDING THE COMMUNICATION FACILITY, OR ANY PORTION THEREOF, AND AT&T DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS THEREFOR.**

12. ENVIRONMENTAL.

(a) City represents and warrants, (i) the Property, as of the date of this Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. City and AT&T agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) City and AT&T 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 ("**Claims**"), to the extent arising from that party's breach of its obligations under Section 12(a). In addition, City agrees to hold harmless and indemnify AT&T from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of City for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the Effective Date of this Agreement, and thereafter throughout the Term for City's sole acts and omissions related to hazardous substances. AT&T agrees to hold harmless and indemnify City from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of AT&T for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by AT&T.

(c) The indemnifications of this Section 12 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 12 will survive the expiration or termination of this Agreement.

(d) In the event AT&T becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in AT&T's sole determination, renders the condition of the Premises or Property unsuitable for AT&T's use, or if AT&T believes that the leasing or continued leasing of the Premises would expose AT&T to undue risks of liability to a government agency or third party, AT&T will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to City.

13. ACCESS. At all times throughout the Term of this Agreement, and at no additional charge to AT&T, AT&T and its employees, agents, and subcontractors, will have upon twenty-four (24) hour prior notice to the City pedestrian and vehicular access to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises, provided in the event of an emergency, AT&T may provide notice as soon as practicably possible. City hereby grants to AT&T such access and City agrees to provide to AT&T such codes, keys and other instruments necessary for such access at no additional cost to AT&T. City acknowledges that in the event AT&T cannot access the Premises, AT&T shall incur significant damage.

14. REMOVAL/RESTORATION. All portions of the Communication Facility brought onto the Property by AT&T will be and remain AT&T's personal property, regardless of whether any portion is deemed real or personal property under applicable law, and, at AT&T's option, may be removed by AT&T without City's consent at any time during the Term. City covenants and agrees that no part of the Communication Facility constructed, erected or

placed on the Premises by AT&T will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of City that all improvements of every kind and nature constructed, erected or placed by AT&T on the Premises will be and remain the property of AT&T and may be removed by AT&T at any time during the Term. Within one hundred twenty (120) days after the termination of this Agreement, AT&T may remove all of AT&T's above-ground improvements and AT&T will, to the extent reasonable, restore the remainder of the Premises to its condition at the commencement of this Agreement, reasonable wear and tear and loss by casualty or other causes beyond AT&T's control excepted.

15. MAINTENANCE/UTILITIES.

(a) AT&T will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. City will maintain and repair the Property and access thereto and all areas of the Premises where AT&T does not have exclusive control, in good and leasable condition, subject to reasonable wear and tear and damage from the elements.

(b) City represents, warrants and agrees throughout the Term to operate, repair, maintain and provide performance reliability of the DAS in a high quality, first class and professional manner, either directly or through a qualified vendor, twenty four (24) hours a day, seven (7) days a week in a manner equal or superior to the recommended repair and maintenance service standards provided by the manufacturer(s) of the DAS.

(c) City will be responsible for providing at City's sole cost and expense, all electricity, HVAC, and any other utility used or consumed by AT&T on the Premises (except as otherwise provided in this Section 15(c)). City will fully cooperate, or will cause the fee owner of the Property to fully cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide such other service to AT&T as AT&T may require in furtherance of the Permitted Use. AT&T shall be responsible for ordering separate T-1 service or such other telephone service connectivity which AT&T may require from time to time for the use and operation of its Communication Facility, and maintaining such separate telephone service connectivity during the Term at AT&T's sole expense. Notwithstanding the foregoing, by specific agreement between City and AT&T, City shall be responsible for the cost of bringing the T-1 and/or such other telephone service from the main (or minimum) point of entry ("MPOE") on the Property to the Equipment Space or such other location comprising a portion of the Premises as AT&T shall have the right to designate for the installation and operation of AT&T's Communication Facility.

16. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by AT&T and a breach of this Agreement: AT&T's failure to perform any other term or condition under this Agreement within thirty (30) days after receipt of written notice from City specifying the failure. No such failure, however, will be deemed to exist if AT&T has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of AT&T. If AT&T remains in default beyond any applicable cure period, City will have the right to exercise any and all rights and remedies available to it under law and/or equity.

(b) The following will be deemed a default by City and a breach of this Agreement: (i) failure to provide access to the Premises or to cure an interference problem within forty-eight (48) hours after receipt of written notice of such default; or (ii) City's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within thirty (30) days after receipt of written notice from AT&T specifying the failure. No such failure, however, will be deemed to exist if City has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of City. If City remains in default beyond any applicable cure period, AT&T will have the right to cure City's default, and any and all other rights available to it under law and/or equity.

17. ASSIGNMENT. AT&T will have the right to assign this Agreement, in whole or in part, without City's consent. Upon notification to City of any assignment, AT&T will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

18. 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 AT&T: New Cingular Wireless PCS, LLC
 Attn: Network Real Estate Administration
 Re: Venue Name: Long Beach Civic Center (CA)
 Fixed Asset No: 14820890
 1025 Lenox Park Blvd.
 3rd Floor
 Atlanta, GA 30319

With the required copy of legal notice sent to AT&T at the address above, a copy to the Legal Department: New Cingular Wireless PCS, LLC
 Attn: Legal Department - Network
 Re: Venue Name: Long Beach Civic Center (CA)
 Fixed Asset No: 14820890
 208 S. Akard Street
 Dallas, Texas, 75202-4206

A copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to City: City of Long Beach
 411 W. Ocean Blvd
 Long Beach CA 90802

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.

19. CONDEMNATION. In the event City receives notification of any condemnation proceedings affecting the Property, City will provide notice of the proceeding to AT&T within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in AT&T's sole determination, to render the Premises unsuitable for AT&T, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for AT&T will include, where applicable, the value of its Communication Facility, moving expenses, and business dislocation expenses.

20. CASUALTY. City will provide notice to AT&T of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by casualty or other harm as to render the Premises unsuitable, in AT&T's sole determination, then AT&T may terminate this Agreement by providing written notice to City, which termination will be effective as of the date of such casualty or other harm. Upon such termination, AT&T will be entitled to collect all insurance proceeds payable to AT&T on account thereof. If City or AT&T undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, City agrees to permit AT&T to place temporary transmission and reception facilities on the Property until the reconstruction of the Premises and/or the Communication Facility is completed.

21. **INTENTIONALLY DELETED**

22. **INTENTIONALLY DELETED**

23. **MISCELLANEOUS.**

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by City and AT&T. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Intentionally Deleted**

(c)

(e) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

(f) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(g) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; and (viii) the singular use of words includes the plural where appropriate.

(h)

(i) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(j) **Sale of Property.** If City, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or Surrounding Property, to a purchaser other than AT&T, City shall promptly notify AT&T in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and AT&T's rights hereunder.

(k) **W-9.** City agrees to provide AT&T with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by AT&T.

(l) **Intentionally Deleted.**

(m) **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable by a court or agency of competent jurisdiction, (a) the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired; and (b) the parties shall negotiate in good faith in an attempt to agree to another provision (instead of the provision held to be invalid, illegal or unenforceable) that is valid, legal and enforceable and carries out the parties' intentions to the greatest lawful extent. If any such action or determination renders the overall performance of this Agreement impossible or materially impairs the original purpose, intent or consideration of this Agreement, and the parties are, despite the good faith efforts of each, unable to amend this Agreement to retain the original purpose, intent and consideration in compliance with that court or agency determination, either party may terminate this Agreement upon sixty (60) days' prior written notice to the other party.

(n) **Counterparts.** This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(o) **Media.** will obtain permission from City before releasing any photo or video content related to network enhancement(s) and/or before holding third-party walkthroughs of the technology at the Property. AT&T will obtain approval from City for permission to include a quote in a press release and agree on the content of the quote with the City.

[SIGNATURES APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

APPROVED AS TO FORM
6-17, 2019
CHARLES PARKIN, City Attorney
By [Signature]
AMY R. WEBBER
DEPUTY CITY ATTORNEY

"CITY"

The City of Long Beach

By: PL West
Print Name: Pat West
Its: City Manager
Date: 6/20/19

"AT&T"

New Cingular Wireless PCS, LLC

By: AT&T Mobility Corporation

Its: Manager

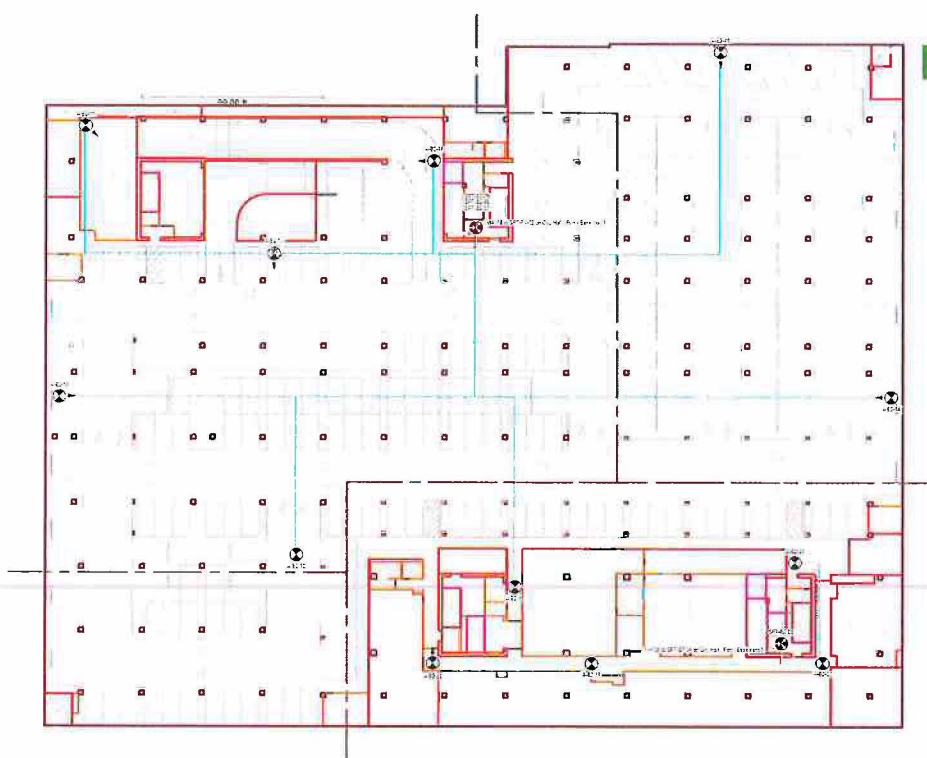
By: [Signature]
Print Name: NEIL BOYER
Its: DIRECTOR-NETWORK
Date: 7-24-19

**EXHIBIT 1
COVERAGE AREA**

Predictive signal propagation maps of Coverage Area of Structure.

[FOLLOWS ON NEXT PAGE]

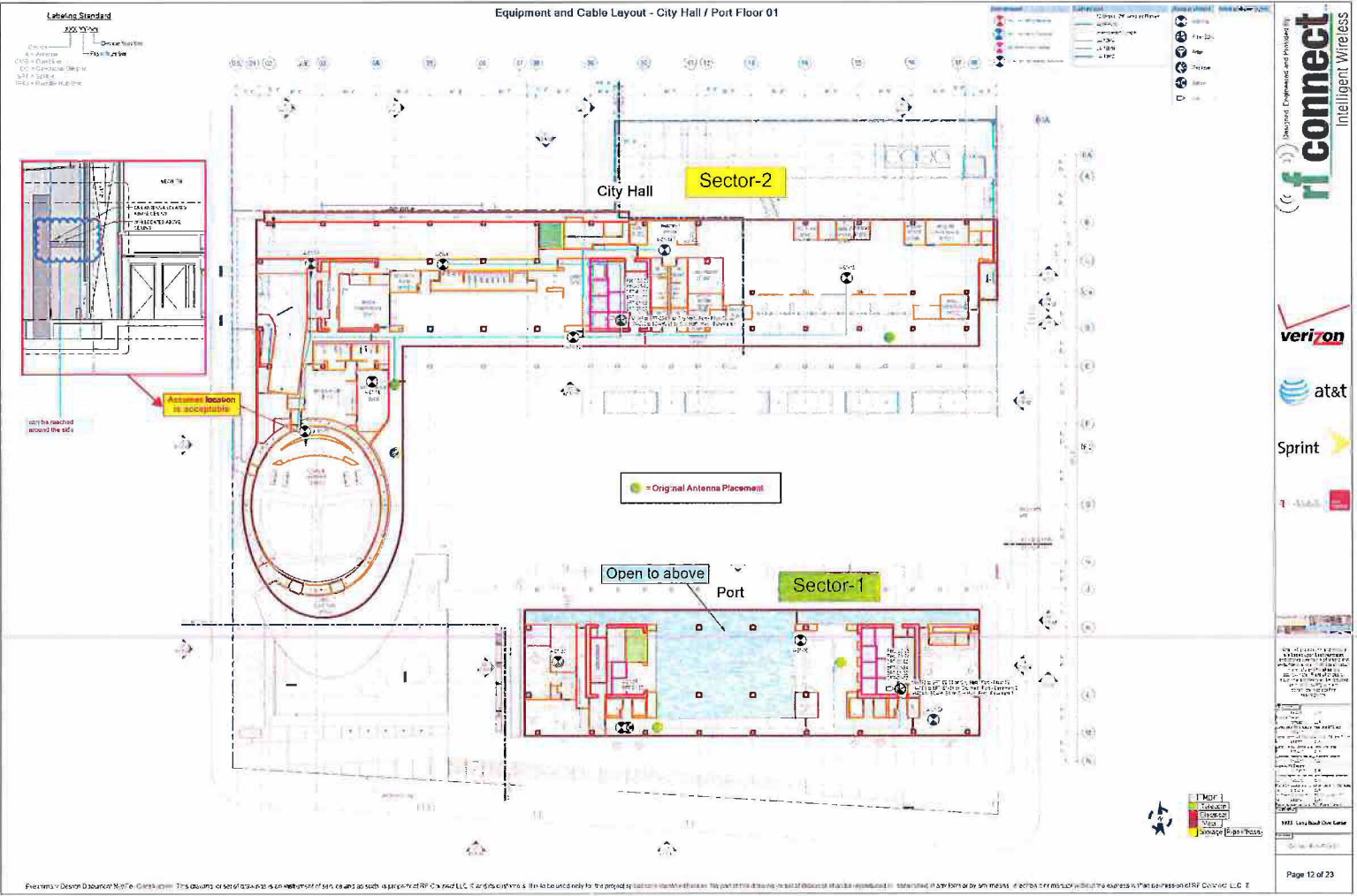
Sector-1



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9123 Long Beach Court, Cedar
 9123 Long Beach Court, Cedar

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rf connect
Intelligent Wireless

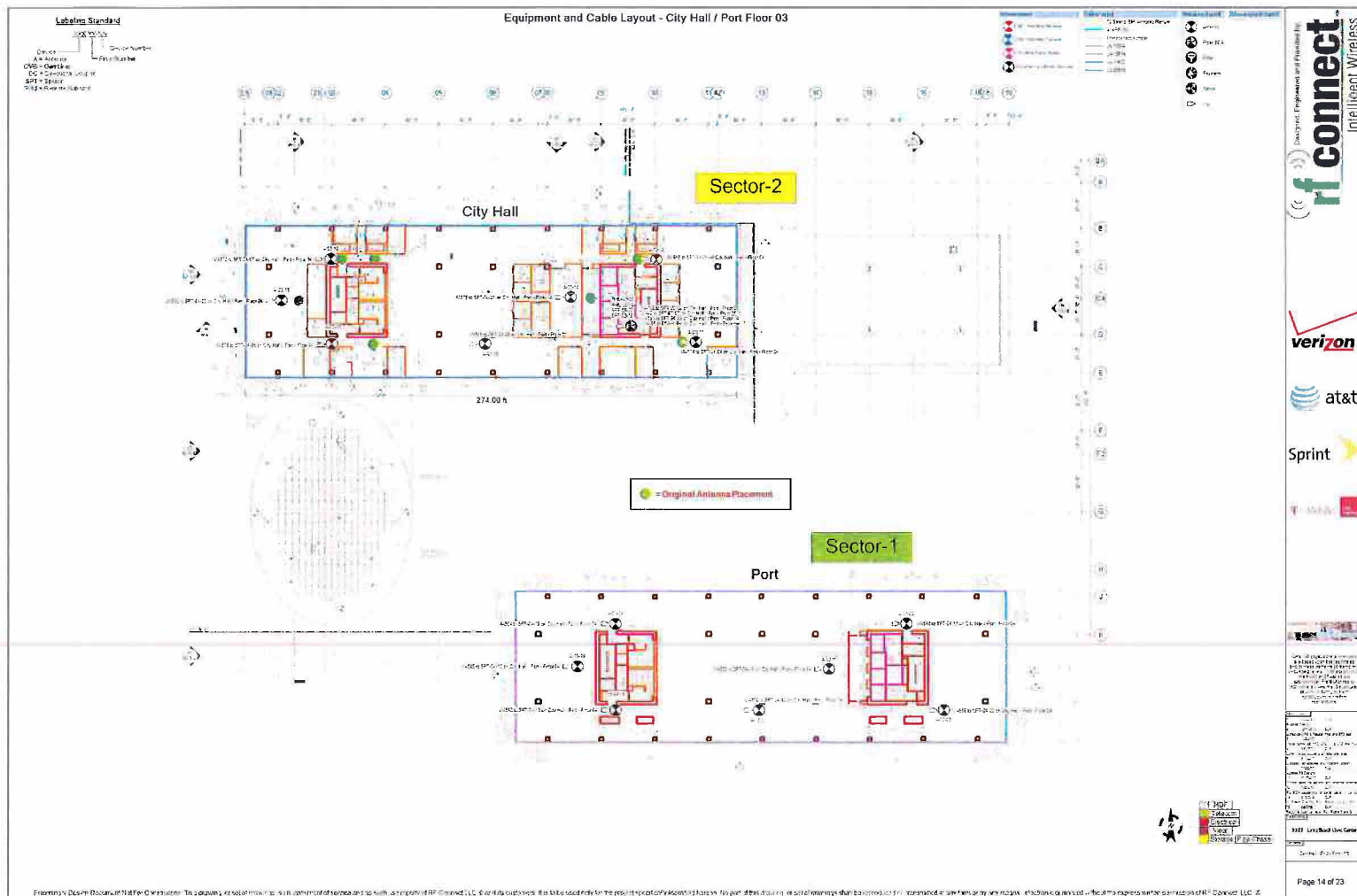
verizon

at&t

Sprint

Page 12 of 23





[illegible]

Labeling Standard

2025 V1.0.0
 Cables
 A - Antenna
 CAVS - Cables
 CC - Cables
 DPT - DPT
 FAS - Fiber

Equipment and Cable Layout - City Hall / Port Floor 05

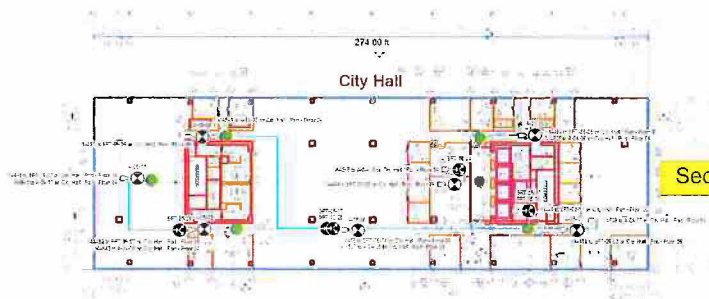
Legend

Antenna

Cables

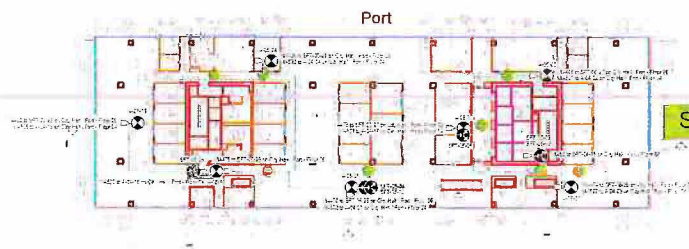
Equipment

Other

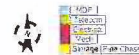


Sector-2

Original Antenna Placement



Sector-1



rf connect
 Intelligent Wireless

verizon

at&t

sprint

Page 16 of 23

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Please print Name (Last, First, Middle Initial): _____

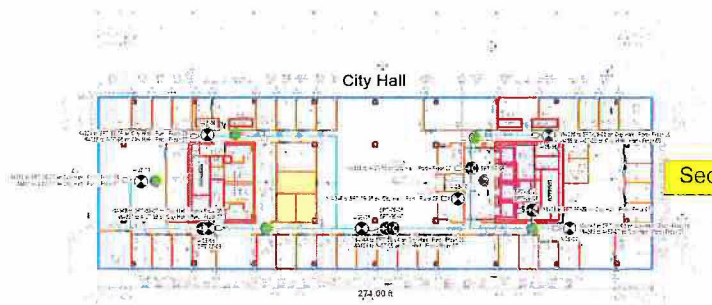
Labeling Standard

Circle = Door
 Square = Window
 Triangle = Elevator
 Diamond = Staircase
 Hexagon = Corridor
 Octagon = Lobby
 Star = Entrance

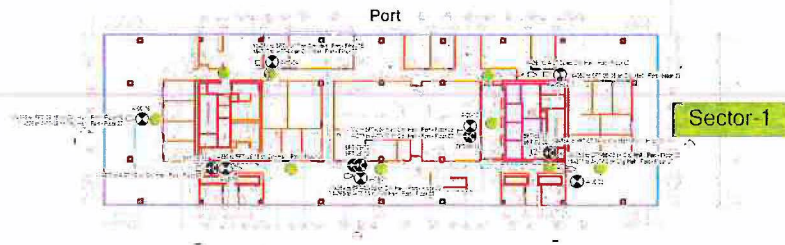
Equipment and Cable Layout - City Hall / Port Floor 08

Legend

- Red dot: New Antenna Placement
- Blue dot: Original Antenna Placement
- Green dot: New Antenna Placement
- Yellow dot: Original Antenna Placement
- Red line: New Cable Run
- Blue line: Original Cable Run
- Green line: New Cable Run
- Yellow line: Original Cable Run



● = Original Antenna Placement



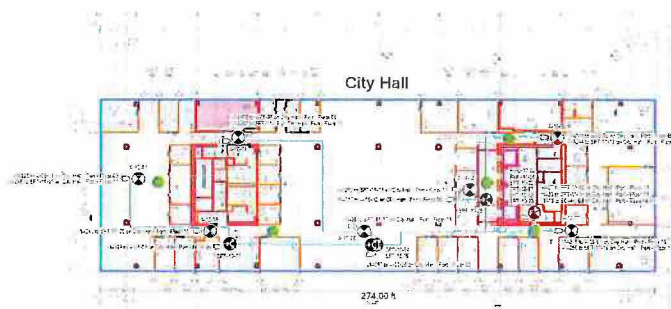
| Item | Quantity | Unit | Notes |
|------------------|----------|------|--------------|
| Antenna | 1 | Each | For Sector 1 |
| Cable | 100 | Feet | For Sector 1 |
| Connector | 5 | Each | For Sector 1 |
| Power Supply | 1 | Each | For Sector 1 |
| Mounting Bracket | 1 | Each | For Sector 1 |
| Label | 10 | Each | For Sector 1 |
| Wiring Diagram | 1 | Each | For Sector 1 |
| Test Equipment | 1 | Each | For Sector 1 |
| Tools | 1 | Each | For Sector 1 |
| Materials | 1 | Each | For Sector 1 |
| Personnel | 1 | Each | For Sector 1 |
| Travel | 1 | Each | For Sector 1 |
| Food | 1 | Each | For Sector 1 |
| Accommodation | 1 | Each | For Sector 1 |
| Insurance | 1 | Each | For Sector 1 |
| Permits | 1 | Each | For Sector 1 |
| Other | 1 | Each | For Sector 1 |

Labeling Standard

2007-07-03
 Device
 A - Antenna
 CWB - Cables
 DC - Electrical Cables
 S - Signal
 T - Telephone
 V - Video
 W - Wireless

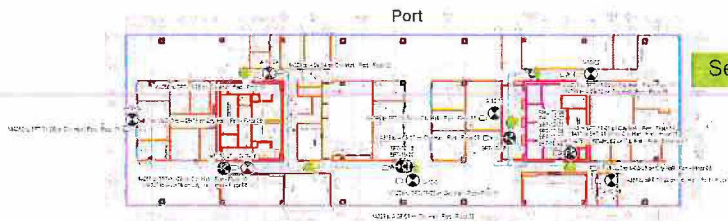
Equipment and Cable Layout - City Hall / Port Floor 10

| Legend | Color | Symbol |
|------------|------------|------------|
| Antenna | Blue | Antenna |
| Cable | Red | Cable |
| Electrical | Green | Electrical |
| Signal | Yellow | Signal |
| Telephone | Purple | Telephone |
| Video | Orange | Video |
| Wireless | Light Blue | Wireless |



Sector-2

Original Antenna Placement



Sector-1



rf connect
 Intelligent Wireless

verizon

at&t

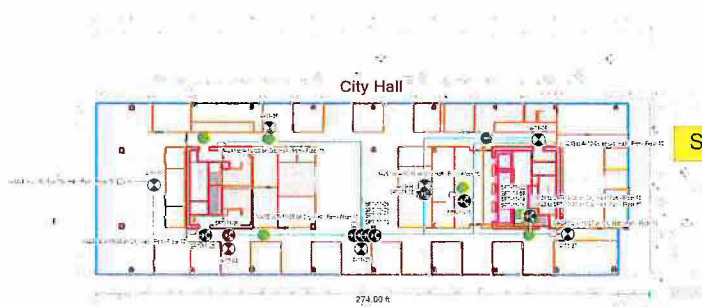
Sprint

T-Mobile

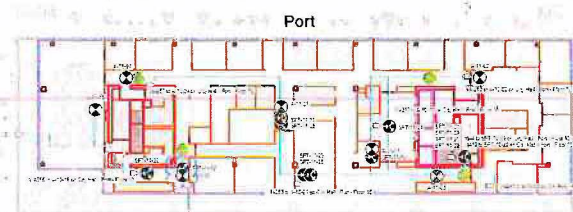
Page 21 of 23

Labels Standard

Equipment and Cable Layout - City Hall / Port Floor 11

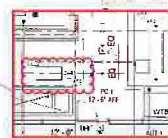


Sector-2



Sector-1

previous comment



| | |
|-------------------|---------------------------|
| Project Name | City Hall / Port Floor 11 |
| Project Number | 1111111111 |
| Project Location | City Hall / Port |
| Project Date | 11/11/11 |
| Project Status | Completed |
| Project Manager | John Doe |
| Project Engineer | Jane Smith |
| Project Designer | Bob Johnson |
| Project Checker | Alice Brown |
| Project Approver | Charlie White |
| Project Reviewer | Diana Green |
| Project Auditor | Eve Black |
| Project Validator | Frank Gray |
| Project Verifier | Grace Blue |
| Project Validator | Henry Red |
| Project Verifier | Ivy Purple |
| Project Validator | Jack Gold |
| Project Verifier | Karen Silver |
| Project Validator | Leo Bronze |
| Project Verifier | Mia Copper |
| Project Validator | Noah Nickel |
| Project Verifier | Olivia Zinc |
| Project Validator | Peter Tin |
| Project Verifier | Quinn Lead |
| Project Validator | Rachel Iron |
| Project Verifier | Sam Steel |
| Project Validator | Tina Aluminum |
| Project Verifier | Uma Plastic |
| Project Validator | Victor Glass |
| Project Verifier | Wendy Rubber |
| Project Validator | Xavier Paper |
| Project Verifier | Yara Fabric |
| Project Validator | Zoe Wood |

Equipment and Cable Layout - City Hall / Port Penthouse & Roof

Device Device Number

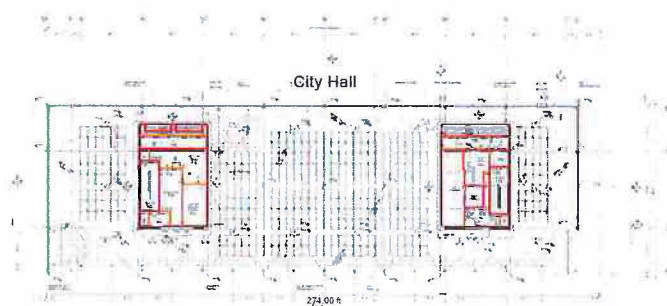
A = Address = File Number

CMB = Command

CV = Command Value

SP = Status

INC = Increment



Coordinate donor antenna LAT/LON with AHJ.

Public Safety services covered from Floor 11 below.

Assumes Commercial Cellular services are provided by Macro system.

- Note
- Installer to coordinate antenna mounting configuration and details with SOM/City and RF Connect Project Manager. Donor antenna is to be located on the common RF antenna base/support structure provided by others.
- Prior to installation of the donor antennas a detailed submittal must be approved by SOM/CCG and the City.

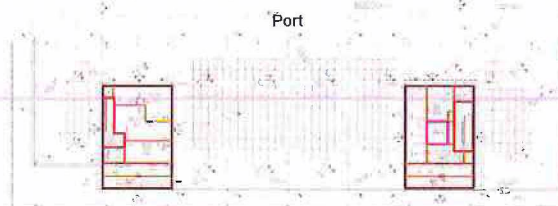


EXHIBIT 2
DESCRIPTION OF PREMISES

to the Agreement dated _____, 20__, by and between The City of Long Beach, a Municipal corporation as City, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as AT&T.

The Premises are described and/or depicted as follows:

[FOLLOWS ON NEXT PAGE]

Notes:

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY AT&T.
2. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ON THIS EXHIBIT.



