

**CITY CLERK
ORIGINAL**C-8406
03/26/2013**LICENSE AGREEMENT
FOR T-MOBILE WEST LLC
IN CITY RIGHT-OF-WAY**

This License Agreement for T-Mobile West LLC in City Right-of-Way ("Agreement") is executed to be effective the 26th day of March, 2013 ("Effective Date"), between the City of Glendale, an Arizona municipal corporation ("City"), and T-Mobile West LLC, L.L.C., a Delaware limited liability company registered in the State of Arizona ("Licensee").

WHEREAS, the City is the owner of certain right-of-way located in the City ROW ("Licensed Area"), as more particularly described in Exhibit A attached hereto;

WHEREAS, the Licensee has installed and operates wireless communication antennas and related equipment specified in Section 1 below (collectively the "Communication Equipment") in the Licensed Area and has constructed certain improvements to such area, as depicted in the Site Plan (collectively the "Licensed Area" as more fully set forth in Section 1 below); and

WHEREAS, the City is willing to grant to the Licensee a license to use the Licensed Area for the operation of the Communication Equipment in accordance with the terms of this Agreement, subject to the approval of the Glendale City Council in connection with the public hearing requirements of A.R.S. § 9-551 *et seq.*, and all as implemented by the City's Property Manager, whose approvals shall not be unreasonably withheld.

THEREFORE, in consideration of the following mutual covenants, terms and conditions, it is hereby agreed as follows:

1. LICENSED AREA.

The Licensed Area includes and is limited to the areas depicted in Exhibit A.

2. CITY'S REPRESENTATIONS AND WARRANTIES.

- A. The City represents and warrants to the Licensee that: i) the City, and its duly authorized signatory, have full right, power and authority to execute this Agreement on behalf of the City; ii) the City has good and unencumbered title to the Licensed Area free and clear of any liens or mortgages, except those disclosed to the Licensee that will not interfere with Licensee's right to use the Licensed Area; and iii) the City's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on the City.
- B. The Licensee has studied and inspected the Licensed Area and accepts the same "AS IS" without any express or implied warranties of any kind, other than those

warranties contained in subsection (A) immediately above, including any warranties or representations by the City as to its condition or fitness for any particular use. The Licensee has inspected the Licensed Area and obtained information and professional advice as the Licensee has determined to be necessary related to this Agreement.

3. GRANT OF LICENSE; TERM.

- A. Nothing in this Agreement will be construed as granting the Licensee the authority to use any property that is owned by any person or entity other than the City.
- B. The initial term of this Agreement shall be for a period of five (5) years (the "Initial Term"), commencing on the Effective Date and ending on the fifth anniversary thereof, unless sooner terminated as stated herein. This Agreement may be renewed for no more than four successive five-year Renewal Terms unless City notifies Licensee in writing of City's intent to not renew this Agreement at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term due to: a violation of any term of this Agreement not cured within thirty (30) days notice; any subsequent violation of the same term since the original Effective Date of this Agreement; for any of the reasons listed under Section 16; or for any operations or incidents the City's Property Manager considers to be a danger to public safety.
- C. If Licensee continues to occupy the Licensed Area after the expiration or termination of this Agreement, holding over will not be considered to operate as a renewal or extension of this Agreement, but shall be a month to month license and the Licensee must pay the City rent in an amount that is double the amount of rent that would otherwise be due under Section 4.
- D. Notwithstanding any provision in this Agreement to the contrary or any negotiation, correspondence, course of performance or dealing, or other statements or acts by or between the parties, Licensee's rights in the Licensed Area are limited to the rights created by this Agreement, which create only a license in the Licensed Area, which is revocable only as set forth expressly herein. The City and the Licensee do not by this instrument intend to create a lease, easement or other real property interest. The Licensee has no real property interest in the Licensed Area. Licensee's sole remedy for any breach or threatened breach of this Agreement by the City will be an action for damages. Licensee's rights are subject to all covenants, restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title to, the Licensed Area. Licensee's rights under this Agreement are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or later having jurisdiction over the Licensed Area or the Licensee's use of the Licensed Area.

4. RENT; FEES; COSTS.

- A. Licensee shall pay, without notice and free from all claims, deductions and setoffs against the City, rent in the amount of \$15,000.00 per year, plus all appropriate taxes (see Section 23 below) beginning on the Effective Date, and each subsequent year of the term of this Agreement, up to and including the expiration or earlier termination thereof.
- B. Rent will increase by three (3) percent annually on the anniversary of the Effective Date.
- C. Rent is due on the first day of the anniversary date month of the Effective Date of this Agreement. Licensee shall pay the rent due for the current year in advance on the first business day of each anniversary month. If the Effective Date is not on the first day of a month, the Licensee's rent will be prorated accordingly.
- C. If the Licensee fails to pay any rent in full when due, then after ten (10) business days of the due date, written notice will be sent to the Licensee that it is responsible for interest on the unpaid principal balance at the rate of 18% per annum from the due date until payment is made in full.
- E. Upon submission of plans in connection with the approval of this Agreement Licensee shall pay the City a dry utility permit fee in accordance with the City's Community Development Fee Schedule.
- F. Licensee shall pay the City actual costs for inspections, materials testing and other costs incurred by the City not to exceed \$1000.00 related to the construction, repair, alteration or relocation of the Licensee's Communication Equipment. All costs shall be paid in full within thirty (30) days of invoice.

5. UTILITIES.

Licensee is responsible for obtaining and paying for all utilities necessary to operate the Licensee's Communication Equipment.

6. USE RESTRICTIONS.

- A. Subject to the interference provisions set forth below, Licensee shall at all times use reasonable efforts to minimize any impact that its use of the Licensed Area will have on other uses of the Licensed Area.
- B. Licensee shall not remove, damage or alter in any way any improvements or personal property of the City upon the Licensed Area without the City's prior written approval. Licensee shall repair any damage or alteration to the City's

property caused by Licensee's use of the Licensed Area to the same condition that existed before the damage or alteration.

- C. Whenever the Licensee performs construction activities within the Licensed Area, the Licensee shall obtain all necessary construction permits and promptly, upon completion of construction, restore the remaining Licensed Area to the condition existing prior to construction to the satisfaction of the City's Property Manager. If the Licensee fails to restore the Licensed Area as required, the City may take all reasonable actions necessary to restore the Licensed Area, and the Licensee, within twenty (20) days of demand and receipt of an invoice, together with reasonable supporting documentation, will pay all of the City's reasonable costs of restoration.
- D. Licensee shall use the Licensed Area solely for constructing, installing, operating, maintaining, repairing, modifying and removing the Licensee's Communication Equipment. The Licensee's Communication Equipment are limited to the equipment and facilities listed in Section 1 above and other items as may be approved by the City, in its sole discretion, in writing.
- E. Licensee shall have a non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, for the construction, installation, operation, maintenance, modification and removal of the Licensee's Communication Equipment. In no event shall the City's use of the Licensed Area be unreasonably interrupted by the Licensee's work. Prior to entering upon the Licensed Area, the Licensee shall give the Property Manager or designee at least forty-eight (48) hours advance notice in the manner provided in Section 21 of this Agreement or, in the event of emergency repairs, any prior notice as is practical.
- F. Licensee shall at all times have on call and at the City's access an active, qualified and experienced representative to supervise the Licensee's Communication Equipment, who is authorized to act for the Licensee in matters pertaining to all emergencies and the day-to-day operation of the Licensee's Communication Equipment. The Licensee shall provide the Property Manager or designee with the names, addresses and the 24-hour telephone numbers of designated persons in writing for Licensee is 888-662-4662.
- G. In the vicinity of any above-ground facilities Licensee may have in the Licensed Area, Licensee shall keep the Licensed Area maintained, orderly and clean at all times.
- H. Licensee acknowledges that: i) the Licensee's use of the Licensed Area is subject and subordinate to, and shall not adversely affect, the City's use of the Licensed Area; and ii) the City reserves the right to further develop, maintain, repair or improve the Licensed Area.

- I. Licensee shall not install any signs in the Licensed Area other than required safety or warning signs or other signs necessary for the use of the Licensed Area as requested or approved by the City. Licensee bears all costs pertaining to the erection, installation, maintenance and removal of all of its signs.

7. HAZARDOUS WASTE.

The Licensee shall not produce, dispose, transport, treat, use or store any hazardous waste or toxic substance upon or about the Licensed Area in violation of the Arizona Hazardous Waste Management Act, A.R.S. § 49-901 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*, or any other federal, state or local law pertaining to hazardous waste or toxic substances. Licensee shall not use the Licensed Area in a manner inconsistent with any regulations, permits or approvals issued by any state agency. The Licensee shall defend, indemnify and hold the City harmless against any loss or liability incurred by reason of any hazardous waste or toxic substance release on or affecting the Licensed Area to the extent caused by the Licensee, and shall immediately notify the City of any hazardous waste or toxic substance release at any time discovered or existing upon the Licensed Area. Licensee shall promptly and without request provide the City with copies of all written communications between the Licensee and any governmental agency concerning environmental inquiries, reports or problems in the Licensed Area.

8. LICENSEE'S IMPROVEMENTS; GENERAL REQUIREMENTS.

- A. The following provisions govern all improvements, repairs, installation and other construction, removal, demolition or similar work of any description by the Licensee related to the Licensee's Communication Equipment or the Licensed Area (collectively referred to as the "Licensee's Improvements"):
 - i) In no event, including termination of this Agreement for any reason is the City obligated to compensate the Licensee in any manner for any of Licensee's Improvements or other work provided by the Licensee during or related to this Agreement. The Licensee shall timely pay for all labor, materials and work and all professional and other services related to Licensee's Improvements and defend, indemnify and hold harmless the City against the same.
 - ii) All work performed by Licensee must be in a workmanlike manner, and be diligently pursued to completion and in conformance with all building codes and similar requirements. Licensee's Improvements shall be commensurate with high quality industry standards as approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed.
 - iii) Licensee acknowledges that as of the Effective Date of this Agreement, the City has not approved or promised to approve any plans for the Licensee's

Improvements, except for those improvements already in place or to the extent expressly stated in this Agreement.

- iv) Licensee shall make no structural or grading alterations, or similar structural modifications or additions or other significant construction work to the Licensed Area without having first received the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Review shall include all improvements, equipment, fixtures, paint and other construction work of any description as described in all plans delivered by the Licensee to the City. All such plans and construction are subject to inspection and final approval by the City as to materials, design, function and appearance.
 - v) Licensee shall keep as-built records of any future modifications of the Licensee's Improvements and furnish copies of records to the City, at no cost to the City, upon completion of improvements and any changes to the same. Licensee shall participate as a member of the Blue Stake Center under A.R.S. § 40-360.21, et seq., regarding underground facilities, and submit proof of participation to the Property Manager upon request.
 - vi) All changes to utility facilities shall be limited to the Licensed Area and shall be undertaken by the Licensee only with the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.
 - vii) All of the Licensee's Improvements shall be designed so as to present uniformity of design, function, appearance and quality throughout and consistency with other improvements located in the Licensed Area.
 - viii) Licensee shall properly mark and sign all excavations and maintain barriers and traffic control in accordance with applicable laws, regulations and best management practices.
- B. The following procedure governs the Licensee's submission to the City of all plans for the Licensed Area and the Licensee's Improvements, including any proposed changes by the Licensee of previously approved plans:
- i) Licensee shall coordinate with the City as necessary on significant design issues prior to submission of plans.
 - ii) Upon execution of this Agreement, the City and the Licensee shall each designate a project manager to coordinate the parties' participation in designing and constructing Licensee's Improvements. The City's Property Manager or designee will serve as project manager for the City. Each project manager shall devote time and efforts to the project as may be necessary for timely, good faith and convenient coordination among all persons involved

with the project and compliance with this Agreement. The City's project manager will not be exclusively assigned to this Agreement or the Licensee's Improvements.

- iii) No plans are considered finally submitted until the Licensee delivers to the City a formal certification if required by building codes by an engineer licensed in Arizona, acceptable to the project manager, to the effect that all of the Licensee's Improvements are properly designed to be safe and functional as designed and as required by this Agreement. The certification shall be accompanied by and refer to any backup information and analysis as the project manager may reasonably require.
- iv) No plans are considered approved until stamped "APPROVED" and dated by the City's project manager.
- v) Licensee acknowledges that the Property Manager's authority with respect to the Licensed Area is limited to the administration of the requirements of this Agreement. Licensee is responsible to secure all zoning approvals, design revisions or other governmental approvals and to satisfy all governmental requirements pertaining to the project and may not rely on the City or Property Manager to initiate or suggest any particular process or course of action.
- vi) The City's issuance of building permits shall not be considered valid unless the plans have been approved as stated in subsection (iv) above. The City's project manager shall be reasonably available to coordinate and assist the Licensee in working through issues that may arise in connection with such plan approvals and requirements.
- vii) The Licensee shall, in the submittal of all plans, allow adequate time for all communications and plan revisions necessary to obtain approvals and shall schedule its performances and revise its plans as necessary to timely obtain all approvals and make payment of all applicable fees.
- viii) Any delay in City's review of or marking Licensee's plans with changes necessary to approve the plans, or approve the revised plans in accordance with the City's normal plan-review procedures, will not be considered approval of the plans but may operate to extend Licensee's construction deadlines. The City agrees to use reasonable efforts to review, mark or approve Licensee's plans in a prompt and timely manner and in conformance with established policies and procedures.
- ix) The Licensee shall provide the City with two (2) complete sets of detailed plans and specifications of the work as completed.

- x) The parties shall use reasonable efforts to resolve any design and construction issues to their mutual satisfaction but, in the event of an impasse for any reason, final decision authority regarding all design and construction issues shall rest with the City in its discretion..

9. LICENSEE'S INITIAL CONSTRUCTION.

No later than eighteen (18) months after the Effective Date, the Licensee shall install the Licensee's Communication Equipment in the Licensed Area in accordance with all of the specifications contained in the attached Exhibit A. Equipment already in place from previous authorization will also be reflected in Exhibit A.

10. MAINTENANCE.

- A. The Licensee has, at its own cost, all responsibilities for improvements to and maintenance of the Licensee's Communication Equipment in the Licensed Area during the term of this Agreement.
- B. Licensee, at its expense, shall use reasonable efforts to minimize the visual and operational impacts of the equipment as required by any City Ordinance, permit, or other permission necessary for the installation or use of the Licensed Area.

11. CO-LOCATION.

- A. Subject to subsection (B) below, the Licensee shall at all times use reasonable efforts to cooperate with the City or any third parties with regard to the possible co-location of additional equipment, facilities or structures in and around the Licensed Area ("Co-location"). If a Co-location is feasible, the City may, in its sole discretion, negotiate a Co-location license agreement with any third party on terms as the City considers appropriate, not inconsistent with the rights and obligations of the parties under this Agreement. Licensee's consent in connection with the final determination of Co-location of a third party is not required. Any rent or fees paid by an additional Co-locator belong solely to the City.
- B. Prior to permitting the installation of a Co-location by any third party in or around the Licensed Area which may interfere with the Licensee's operations, the City shall give the Licensee thirty (30) days notice of the proposed Co-location so that the Licensee can determine if the Co-location will interfere with the Licensee's infrastructure. If the Licensee determines that interference is likely, the Licensee shall, within the notice period, give the City a detailed written explanation of the anticipated interference, including supporting documentation as may be reasonably necessary for the City to evaluate the Licensee's position. The City and the Licensee shall promptly use reasonable efforts to resolve any interference problems before the City permits a Co-location to the third party. If a subsequent licensee is permitted to operate near the Licensed Area, and the subsequent licensee's

operations materially interfere with Licensee’s infrastructure, then the City shall direct the subsequent licensee to remedy the interference within seventy-two (72) hours. If the interference is not resolved within this period, then the City will direct the subsequent licensee to cease its operation until the interference is resolved. These same procedures apply to any interference caused by Licensee with respect to any Co-location existing and as configured prior to the installation of Licensee’s infrastructure.

12. ASSIGNMENT.

- A. Licensee may assign this Agreement, upon thirty (30) days written notice to the City, to any person or entity controlling, controlled by or under common ownership with the Licensee or Licensee’s parent company, or to any person or entity that, acquires the Licensee’s business and assumes all obligations of the Licensee under this Agreement. Other assignments require City approval. For assignments requiring City approval, the City may, as a condition of approval, postpone the effective date of the assignment and require that any potential transferee submit reasonable evidence of its financial ability to fully perform under the terms of this Agreement to the City at least thirty (30) days prior to any transfer of the Licensee’s interest.
- B. The Licensee may, upon notice to the City, mortgage or grant a security interest in this Agreement and the Licensee’s infrastructure, and may assign this Agreement and the Licensee’s infrastructure to any mortgagees, deed of trust beneficiaries or holders of security interests, including their successors or assigns (“Mortgagees”), so long as the Mortgagees agree to be bound by the terms of this Agreement. If so, the City shall execute consent to leasehold or other financing as may be reasonably required by Mortgagees. In no event will Licensee grant or attempt to grant a security interest in any of the real property underlying the Licensed Area.
- C. Subject to subsections (A) and (B) above, Licensee shall not assign or sublease any of its interest under this Agreement, nor permit any other person to occupy the Licensed Area.

13. PERFORMANCE BOND.

In addition to any other bond required by this Agreement, the Licensee shall, no later than thirty (30) days after the Effective Date, provide the City with a cash deposit, letter of credit or performance bond in the amount of \$5,000.00. The performance bond shall be conditioned upon the Licensee’s faithful performance of all of its obligations under this Agreement. The bond shall be executed by a surety company duly authorized to do business in the State of Arizona and acceptable to the City’s Risk Manager.

14. REGULATORY AGENCIES, SERVICES, FINANCIALS AND BANKRUPTCY.

- A. The Licensee shall provide to the City:

- i) All relevant petitions, applications, communications and reports submitted by the Licensee to the Arizona Corporation Commission, inclusive of any requirements under A.R.S. § 40-441 *et seq.*, or other state or federal authority having jurisdiction that directly relates to Licensee's operations in the Licensed Area;
 - ii) Licensing documentation concerning all services of whatever nature being offered or provided by the Licensee over facilities in the Licensed Area. Copies of responses from regulatory agencies to the Licensee shall be available to the City upon request. To the extent permitted by Arizona's Public Records Law, A.R.S. § 39-121 *et seq.*, the City will treat all documentation and information obtained pursuant to this Section 14 as proprietary and confidential.
- B. The Licensee shall provide the City, without request, copies of any petition, application, communications or other documents related to any filing by the Licensee of bankruptcy, receivership or trusteeship.

15. DEFAULT; TERMINATION BY CITY.

- A. The City may terminate this Agreement for any of the following reasons upon thirty (30) days written notice to Licensee:
- i) Failure of Licensee to perform any obligation under this Agreement, after Licensee fails to cure default within the notice and cure period. However, if cure cannot reasonably be implemented within the notice period, Licensee must commence and diligently pursue to cure within ninety (90) days of the City's notice.
 - ii) The taking of possession for a period of ten (10) days or more of substantially all of Licensee's personal property in the Licensed Area by or pursuant to lawful authority of any legislative act, resolution, rule, order or decree or any act, resolution, rule, order or decree of any court or governmental board, agency, officer, receiver, trustee or liquidator.
 - iii) The filing of any lien against the Licensed Area due to any act or omission of the Licensee that is not discharged or fully bonded within thirty (30) days of receipt of actual notice by the Licensee.
- B. The City may place the Licensee in default of this Agreement by giving the Licensee fifteen (15) business days written notice of the Licensee's failure to timely pay the rent required under this Agreement or any other charges required to be paid by the Licensee pursuant to this Agreement. If Licensee does not cure the default

within the notice period the City may terminate this Agreement or exercise any other remedy allowed by law or equity.

- C. If the Licensee, through any fault of its own, at any time fails to maintain all insurance coverage required by this Agreement, the City may, upon written notice to the Licensee, immediately terminate this Agreement or secure the required insurance at Licensee's expense.
- D. Failure by a party to take any authorized action upon default by the other party does not constitute a waiver of the default nor of any subsequent default by the other party. Acceptance of rent and other fees by the City for any period after a default by the Licensee is not considered a waiver or estoppel of the City's right to terminate this Agreement for any subsequent failure by the Licensee to comply with its obligations.
- E. Upon the termination of this Agreement for any reason, all rights of the Licensee terminate, including all rights of the Licensee's creditors, trustees and assigns and all others similarly situated as to the Licensed Area.

16. TERMINATION.

- A. This Agreement may be terminated for any of the following reasons:
 - i) By either party upon issuance by a court of competent jurisdiction of an injunction in any way preventing or restraining the Licensee's use of any portion of the Licensed Area and remaining in force for a period of thirty (30) consecutive days.
 - ii) By either party upon the inability of the Licensee to use any substantial portion of the Licensed Area for a period of thirty (30) consecutive days due to the enactment or enforcement of any law or regulation or because of fire, earthquake or similar casualty, or Acts of God or the public enemy.
 - iii) By either party upon ninety (90) days written notice, if the Licensee is unable to obtain or maintain any license, permit or governmental approval necessary for the construction, installation or operation of the Licensee's Communication Equipment or the Licensee's business.
 - iv) By Licensee, if the Licensed Area or Licensee's infrastructure are destroyed or damaged so as in Licensee's party's reasonable judgment the use of the Licensee's ground / pole equipment/infrastructure is substantially and adversely affected.
 - v) Upon thirty (30) days' written notice by Tenant if the Licensed Area or the Licensee's equipment is, or becomes unacceptable under Tenant's design or

engineering specifications for its communication facilities or the communications system to which the equipment belongs;

- B. In order to exercise the termination provisions above the party exercising termination must not itself be in default under the terms of this Agreement beyond any applicable grace or cure period and, if not otherwise stated above, provide reasonable written notice to the other party.

17. INDEMNIFICATION.

The Licensee shall defend, indemnify and hold harmless the City and its elected or appointed officials, agents, boards, commissions and employees (hereinafter referred to collectively as the "City" in this Section) from all loss, damages or claims of whatever nature, including attorney's fees, expert witness fees and costs of litigation, that arise out of any act or omission of the Licensee or its agents, employees and invitees (hereinafter referred to collectively as "Licensee" in this Section) in connection with the Licensee's operations in the Licensed Area and that result directly or indirectly in the injury to or death of any person or the damage to or loss of any property, or that arise out of the failure of Licensee to comply with any provision of this Agreement. The City shall in all instances, except for loss, damages or claims resulting from the negligence or fault of the City, be indemnified by Licensee against all losses, damages or claims. The City shall give the Licensee prompt notice of any claim made or suit instituted that may subject the Licensee to liability under this Section, and Licensee shall have the right to compromise and defend the same to the extent of its own interest. The City shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of the City's selection and at the City's sole cost without relieving the Licensee of any obligations under this Agreement. Licensee's obligations under this Section survive any termination of this Agreement or the Licensee's activities in the Licensed Area.

18. INSURANCE.

- A. The Licensee shall procure and at all times maintain the following types and amounts of insurance for its operations in the Licensed Area:
- i) Commercial general liability and property damage insurance in the minimum amount of \$5,000,000 combined single limit, \$5,000,000 aggregate such limit may be satisfied by a combination of primary and umbrella policies. Licensee may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Licensee may maintain.
 - ii) Any other insurance, as the City's Risk Manager may determine, to be necessary for the Licensee's operations and is commercially reasonable.

B. Insurance shall:

- i) Be from a company rated at least A- by AM Best;
- ii) Name the City as an additional insured on the commercial general liability insurance policy as evidenced by a certificate of insurance and maintain coverage through the term of the Agreement;
- iii) Require 20 days written notice to the City prior to cancellation (10 days due to non-payment);
- iv) Include contractual liability coverage for the obligation of indemnity assumed in this Agreement, subject to standard policy provisions and exclusions; and
- v) Be primary and non-contributory with respect to all other available sources, as relates to Licensee's negligence.

C. Licensee shall provide appropriate certificates of insurance to the City for all insurance policies required by this Section. Absence of City request for proof of initial or renewal coverage does not waive any insurance requirements under this paragraph.

19. DAMAGE OR DESTRUCTION.

The City has no obligation to reimburse the Licensee for the loss of or damage to fixtures, equipment or other personal property of the Licensee, except for loss or damage caused by the negligence or fault of the City or its officers, employees or agents. The Licensee may insure such fixtures, equipment or other personal property for its own protection if it so desires.

20. SURRENDER OF POSSESSION.

Upon the expiration or termination of this Agreement, the Licensee's right to occupy the Licensed Area and exercise the privileges and rights granted under this Agreement shall cease, and it shall surrender and leave the Licensed Area in good condition, normal wear and tear excepted. Unless otherwise provided, all trade fixtures, equipment, and other personal property installed or placed by the Licensee on the Licensed Area shall remain the property of the Licensee, and the Licensee may, at any time during the term of this Agreement, and for an additional period of ninety (90) days after its expiration, remove the same from the Licensed Area so long as Licensee is not in default of any of its obligations, and repairs at its sole cost, any damage caused by the removal. Any property not removed by the Licensee within the 90-day period becomes a part of the Licensed Area, and ownership vests in the City, or the City may, at the Licensee's expense, have the property removed. Licensee's indemnity under this Agreement applies to any post termination removal operations.

23. TAXES AND LICENSES.

- A. The Licensee shall pay any leasehold tax, possessory-interest tax, sales tax, personal property tax, transaction privilege tax, use tax or other exaction assessed or assessable as a direct result of its occupancy of the Licensed Area under authority of this Agreement, including any tax assessable on the City not including income taxes. If laws or judicial decisions result in the imposition of a real property tax on the interest of the City as a direct result of Licensee's occupancy of the Licensed Area, the tax shall also be paid by the Licensee on a proportional basis for the period this Agreement is in effect.
- B. The Licensee shall, at its own cost, obtain and maintain in full force and effect during the term of this Agreement all licenses and permits required for all activities authorized by this Agreement.

24. LITIGATION.

This Agreement is governed by the laws of the State of Arizona. If any litigation or arbitration between the City and the Licensee arises under this Agreement, the successful party is entitled to recover its reasonable attorney's fees, expert witness fees and other costs incurred in connection with the litigation or arbitration.

25. RULES AND REGULATIONS.

The Licensee shall at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its operations and the Licensed Area, including all laws, ordinances, rules and regulations adopted after the Effective Date. The Licensee shall display to the City, upon request, any permits, licenses or other reasonable evidence of compliance with the law.

26. RIGHT OF ENTRY RESERVED.

- A. The City may, at any time, enter upon the Licensed Area for any lawful purpose, so long as the action does not unreasonably interfere with the Licensee's use or occupancy of the Licensed Area. The City shall have access to the Licensee's ground equipment infrastructure itself only in emergencies or upon reasonable notice to the Licensee.
- B. Without limiting the generality of the foregoing, the City and any furnisher of utilities and other services shall have the right, at their own cost, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Licensed Area at any time to make repairs, replacements or alterations that may, in the opinion of the City, be necessary or advisable and from time to time to construct or install over, in or under the Licensed Area systems or parts and in connection with maintenance, use the Licensed Area for access to other parts in and

around the Licensed Area. Exercise of rights of access to repair, to make alterations or commence new construction will not unreasonably interfere with the use and occupancy of the Licensed Area by the Licensee.

- C. Exercise of any of the foregoing rights by the City or others pursuant to the City's rights does not constitute an eviction of the Licensee, nor are grounds for any abatement of rent or any claim for damages.

27. RELOCATION.

- A. The City shall not bear any cost of relocation of existing facilities, irrespective of the function served, where the City facilities or other facilities occupying the Licensed Area or right-of-way in close proximity to the Licensed Area, are already located and the conflict between the Licensee's potential infrastructure and existing facilities can only be resolved expeditiously, as determined by the City, by the movement of the existing City or other permitted facilities.
- B. The City shall not bear any cost of relocation of Licensee's infrastructure, where in the City's discretion, relocation is reasonable and necessary in connection with City right-of-way repairs, improvements or other capital projects affecting the Licensed Area. City shall provide Licensee no less than ninety (90) days advance notice of a requirement to relocate. If the City becomes aware of a potential delay involving the Licensee's relocation, the City shall notify the Licensee within thirty (30) days of becoming aware of the potential delay. The Licensee may object in writing to the determination of relocation to the City's Property Manager within ten (10) thirty (30) days of receipt of the notice to relocate. The Property Manager shall consider the objection and respond in writing to Licensee within thirty (30) days of receipt of the objection. The Property Manager's determination is final. However, if Licensee is forced to relocate it may instead terminate this Agreement by giving the City ten (10) day's notice.
- C. If Licensee's relocation effort delays construction of a public project causing the City to be liable for delay or other damages, the Licensee shall reimburse the City for those damages attributable to the delay created by the Licensee. If Licensee disputes the amount of damages attributable to the Licensee, the matter shall be referred to the Dispute Resolution Board as defined below. The Dispute Resolution Board shall consist of one member selected by the City, one member selected by the Licensee, and a third member agreed upon by both parties. The member agreed upon by both parties shall be chairperson of the Dispute Resolution Board. Expenses for the Dispute Resolution Board shall be shared equally by the City and the Licensee. The Board will hear the dispute promptly, and render an opinion as soon as possible, but in no case later than sixty (60) days after notification by the City of Licensee's allocated share of damages suffered by the City. All decisions of the Dispute Resolution Board are non-binding on the City or the Licensee; however the findings of the Dispute Resolution Board shall be admissible in any legal action. The City and the Licensee

shall accept or reject findings of the Dispute Resolution Board within thirty (30) days after receipt of the findings. If damages are assessed by the Dispute Resolution Board, and accepted by the City and the Licensee, the Licensee shall pay the City within thirty (30) days. If the Licensee fails to pay the damages in full within thirty (30) days the Licensee is responsible for interest on the unpaid balance at the rate of 18% per annum from that date until payment is made in full. Nothing herein prevents a mutual agreement between the City and the Licensee to use alternative dispute resolution for disputes related to other Agreement provisions.

28. CONFLICTS OF INTEREST.

This Agreement may be cancelled for conflicts of interest as described under A.R.S. § 38-511.

29. PROHIBITIONS.

Licensee, and on behalf of any subcontractor, certifies, to the extent applicable under A.R.S. §§ 35-391 *et. seq* and 35-393 *et. seq*, that neither has “scrutinized” business operations, as defined in the preceding sections, in the countries of Sudan or Iran.

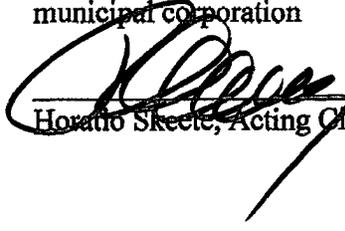
30. MISCELLANEOUS.

This Agreement constitutes the entire agreement between the parties concerning the subject matter stated and supersedes all prior negotiations, understandings and agreements between the parties concerning those matters. This Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions. No provision of this Agreement may be waived or modified except by a writing signed by the party against whom the waiver or modification is sought to be enforced. Electronic signature blocks do not constitute a signature for purposes of this Agreement. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The terms of this Agreement are binding upon and inure to the benefit of the parties’ successors and assigns.

(Signatures appear on the following page.)

EXECUTED to be effective as of the date specified above.

CITY OF GLENDALE, an Arizona
municipal corporation



Horatio Skeete, Acting City Manager

ATTEST:



Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:



City Attorney

T-Mobile West LLC

By: 

Its: Regional Director of Eng & Dev

STATE OF _____)
County of _____) ss.

See attached

The foregoing document was acknowledged before me this _____ day of _____,
2013, by _____, in his or her capacity as _____ of
T-Mobile West LLC.

Notary Public

My Commission Expires:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Contra Costa

On June 11, 2013 before me, Beatriz Rodriguez, a Notary Public

personally appeared Darcey Pushing-Estes

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



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

WITNESS my hand and official seal.

Signature: [Handwritten Signature] Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document License Agreement PH10633

Document Date March 26, 2013 Number of Pages: 19

Signer(s) Other Than Named Above.

Capacity(ies) Claimed by Signer(s)

Signer's Name. Darcey Pushing-Estes Signer's Name

Corporate Officer - Title(s): Reg. Div. Eng. Dev Corporate Officer - Title(s)

Individual Partner - Limited General Individual Partner - Limited General

Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

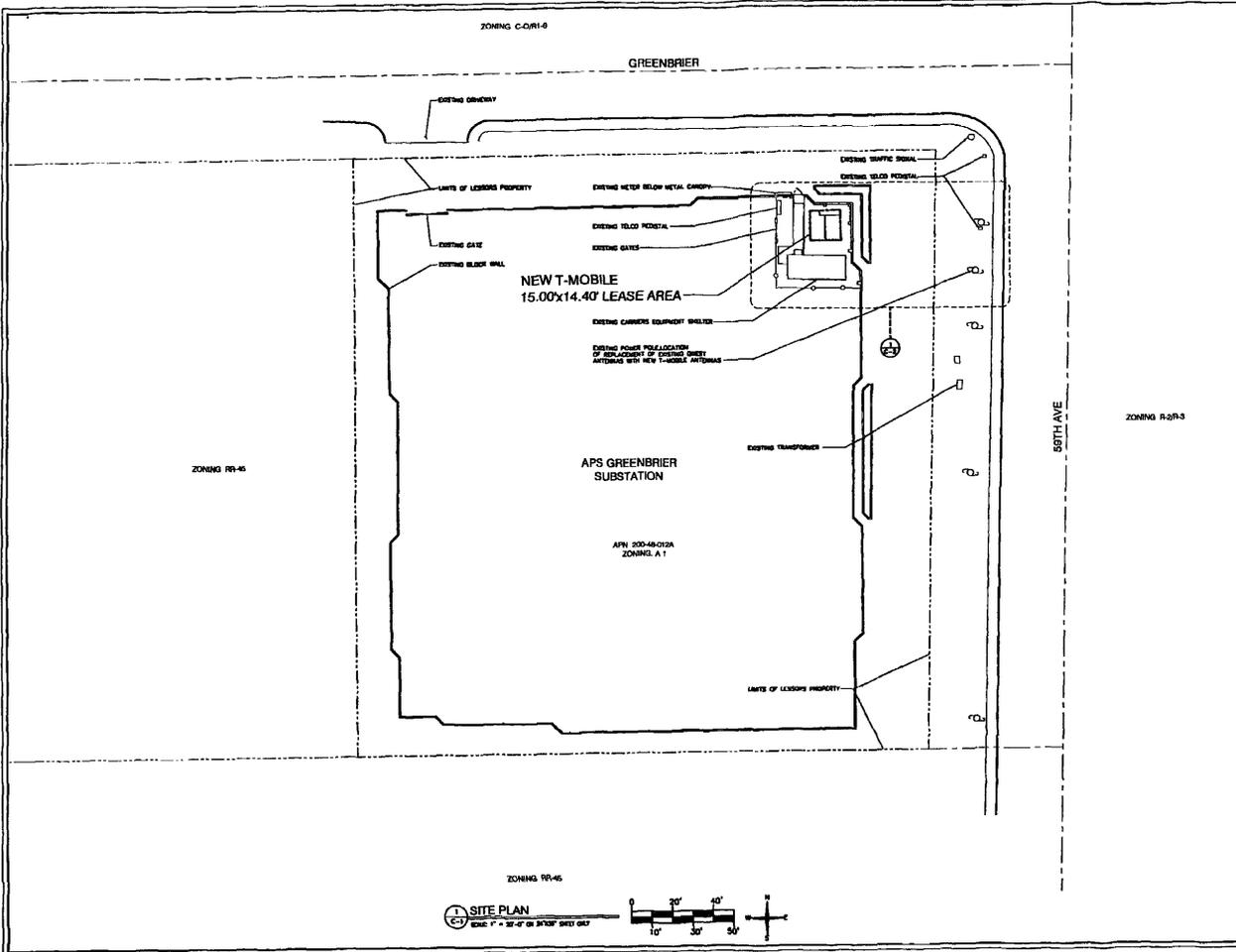
Other Other

Signer Is Representing Signer Is Representing



EXHIBIT A

(see attached)



T-Mobile
Member of T-Mobile USA, Inc.

2501 N. Broadway St., Suite 100, Phoenix, AZ 85016
 Phone: (602) 944-3000 Fax: (602) 944-3643

PLANS PREPARED BY
CDS
 Custom Design Services

3216 S. Fair Lane
 Tempe, Arizona 85282
 Phone: (602) 798-8829
 Fax: (602) 791-2132

TDE
 TERRA DYNAMIC ENGINEERING, LLC
 2500 EAST NORTHERN AVENUE, SUITE 108
 PHOENIX, ARIZONA 85028
 FAX: (602) 482-1803
 FAX: (602) 798-2992

NO.	DATE	DESCRIPTION	BY
1	07/05/06	PRELIMINARY	SPE
2	07/11/06	SUBMITTAL	SPE

PROJECT INFORMATION
 02-015-04

PH10633C

APS GREENBRIER SUBSTATION

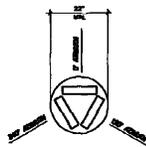
17280 N. 50TH AVENUE
 CLANDALE, ARIZONA 85306

SHEET TITLE
SITE PLAN

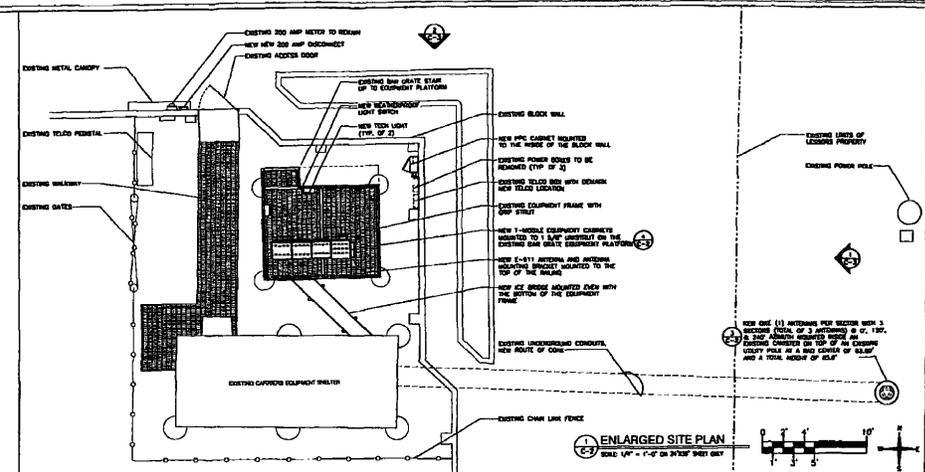
SHEET NUMBER
C-1

APPROVAL BLOCK

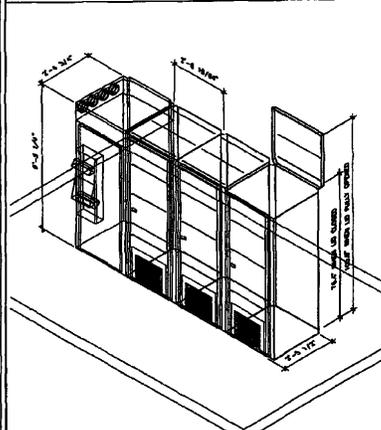
SITE PLAN
 SCALE: 1" = 30'-0" OR 3/32" PER 1" ON 11" X 17" SHEET



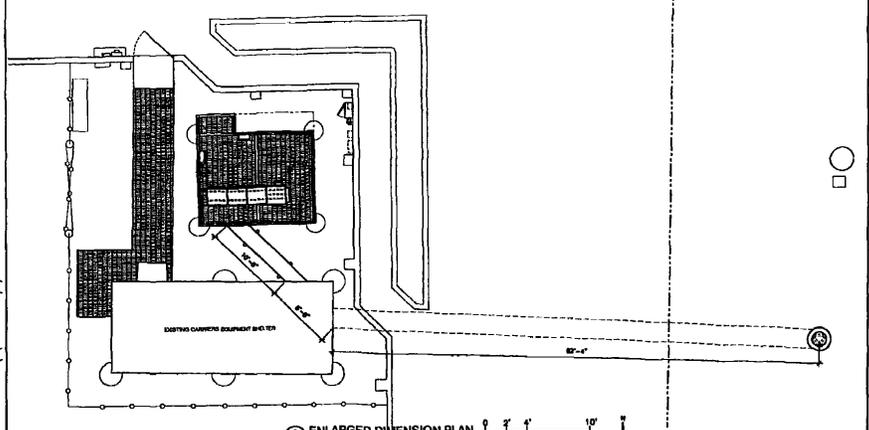
ANTENNA PLAN
SCALE: 1/8" = 1'-0"



ENLARGED SITE PLAN
SCALE: 1/4" = 1'-0" OR SMALLER SHEET SIZE



EQUIPMENT ISOMETRIC
SCALE: 1/8" = 1'-0"



ENLARGED DIMENSION PLAN
SCALE: 1/4" = 1'-0" OR SMALLER SHEET SIZE



2601 W. BROADWAY SU. 1000 TAMPA, FLORIDA 33607
PHONE: (813) 943-3000 FAX: (813) 943-3563

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TAMPA, ARIZONA 85302
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FAX: (602) 391-2132

TDE
TERRA DYNAMIC ENGINEERING, LLC
2830 EAST NORTHERN AVENUE, B-108
PHOENIX, ARIZONA 85029
PH: (602) 482-1800
FAX: (602) 926-2692

NO.	DATE	DESCRIPTION	BY
1	07/08/06	PRELIMINARY	SPK
2	07/11/06	SUBMITTAL	SPK

PROJECT INFORMATION
02-015-04
PH10633C
APS GREENBRIAR
SUBSTATION
17280 N. 59TH AVENUE
GLENDALE, ARIZONA 85306

SHEET TITLE
**ENLARGED SITE,
DIMENSION PLAN AND
ANTENNA PLAN**

SHEET NUMBER
C-2

APPROVAL BLOCK

T-Mobile

1901 N. GARDENWAY, 3RD FLOOR, AVENUE CENTER
 PHOENIX, (602) 843-3000 FAX: (602) 843-2883

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 3216 S. Fair Lane
 Tempe, Arizona 85282
 Phone: (602) 758-6829
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TDE
 TERRA DYNAMIC ENGINEERING, LLC
 2000 EAST WENTWORTH AVENUE, SUITE 200
 PHOENIX, ARIZONA 85033
 PH: (602) 462-1652
 FAX: (602) 928-2692

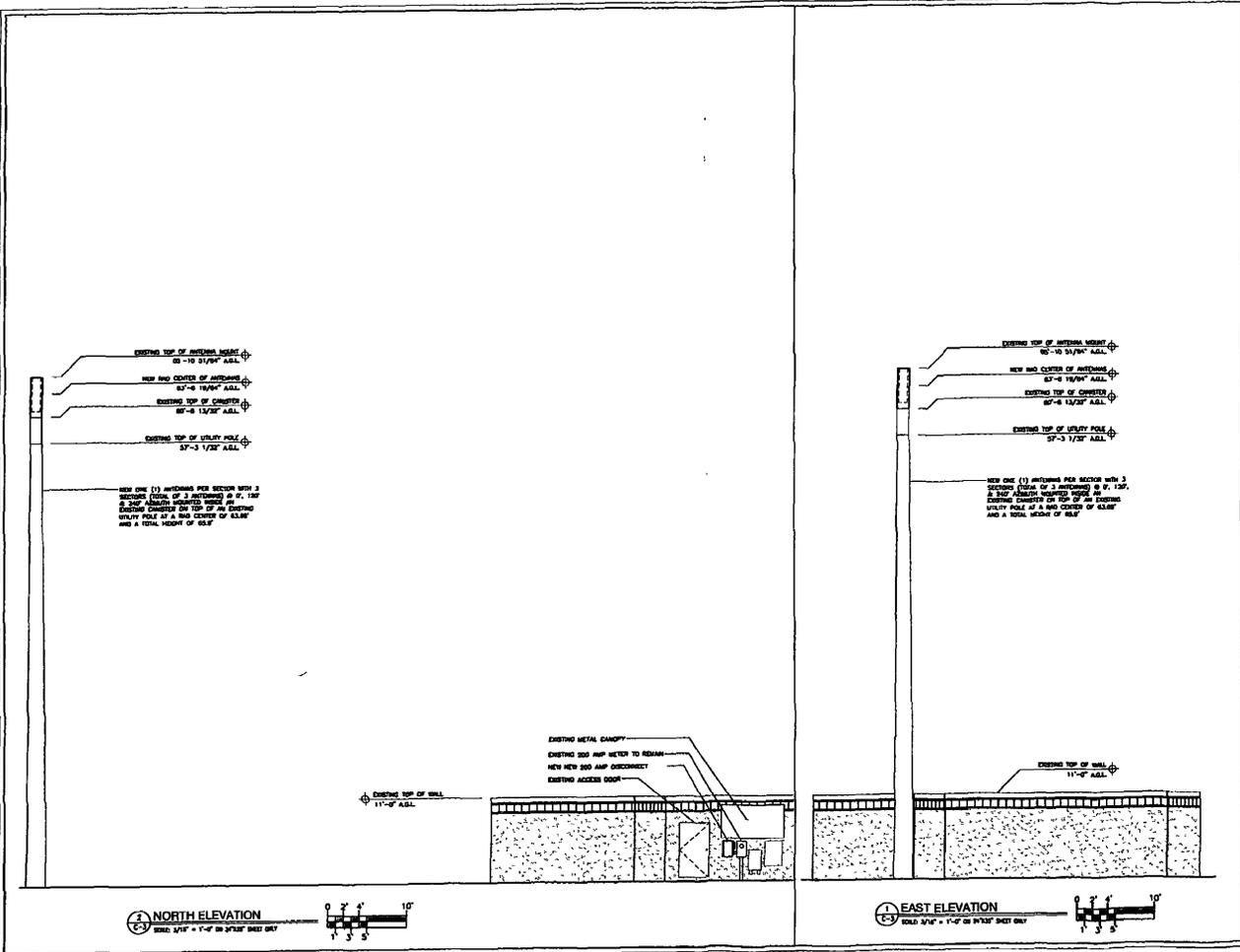
NO.	DATE	DESCRIPTION	BY
1	07/06/06	PRELIMINARY	SPE
2	07/11/08	SUBMITTAL	SPE

PROJECT INFORMATION - 02-015-04
PH10633C
APS GREENBRIAR SUBSTATION
 17360 N. 20TH AVENUE
 GLENDALE, ARIZONA 85308

SHEET TITLE
ELEVATIONS

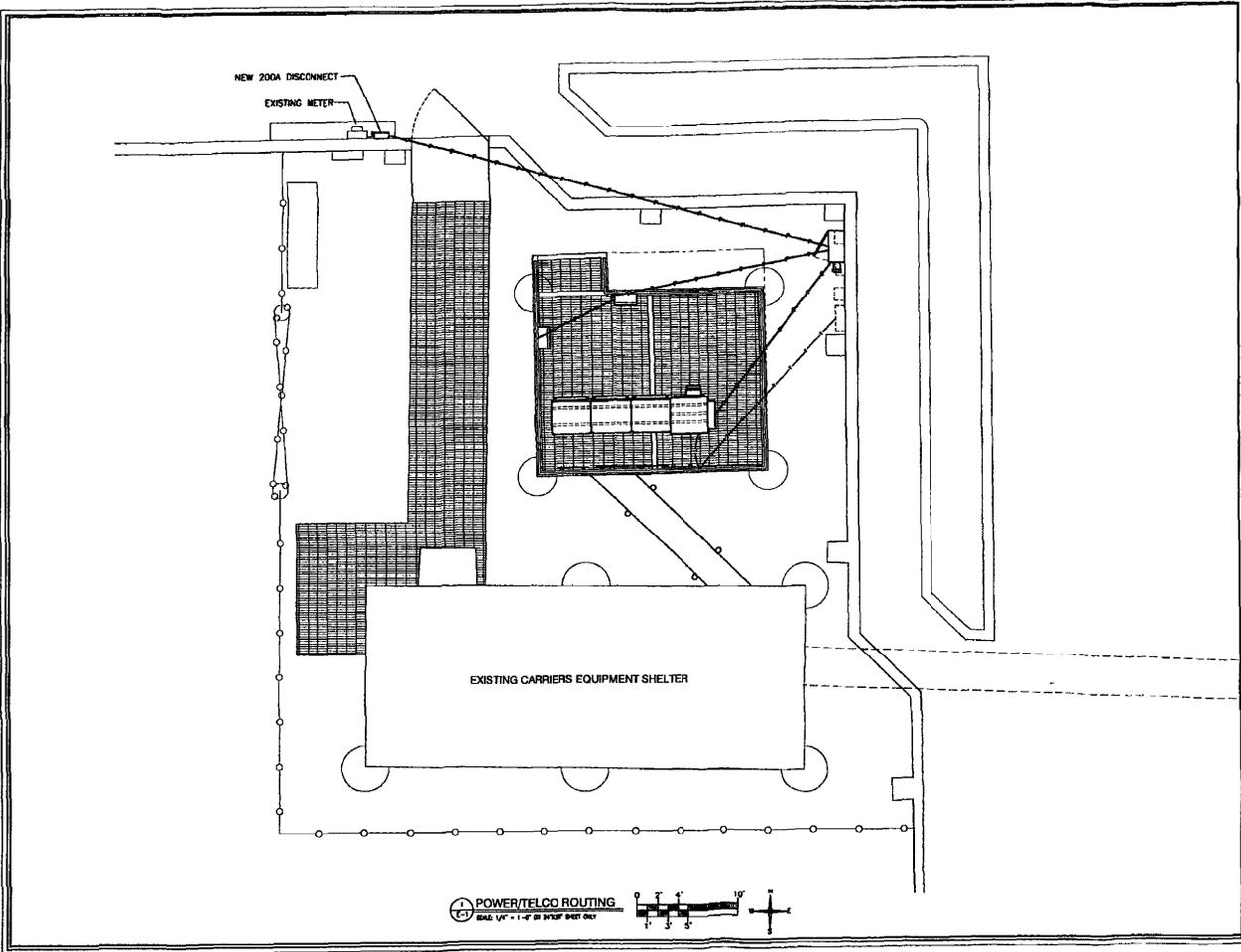
SHEET NUMBER
C-3

APPROVAL BLOCK



NORTH ELEVATION
 2000 3/16" = 1'-0" ON 24"X36" SHEET ONLY

EAST ELEVATION
 2000 3/16" = 1'-0" ON 24"X36" SHEET ONLY



T-Mobile
Trademark PCS II Corporation, a subsidiary of T-Mobile USA, Inc.

3001 N. WILLOWAY RD., TEMPE, ARIZONA 85282
 PHONE: (602) 953-2600 FAX: (602) 963-2923

PLANS PREPARED BY

CDS
Custom Design Services
 3216 S. Fall Lane
 Tempe, Arizona 85282
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 Fax: (602) 391-2132

NO.	DATE	DESCRIPTION	BY
1	07/06/06	PRELIMINARY	SPE
2	07/11/06	SUBMITTAL	SPE

PROJECT INFORMATION
 02-015-04

PH10633C

**APS GREENBRIAR
 SUBSTATION**

17260 N. 58TH AVENUE
 GLENDALE, ARIZONA 85308

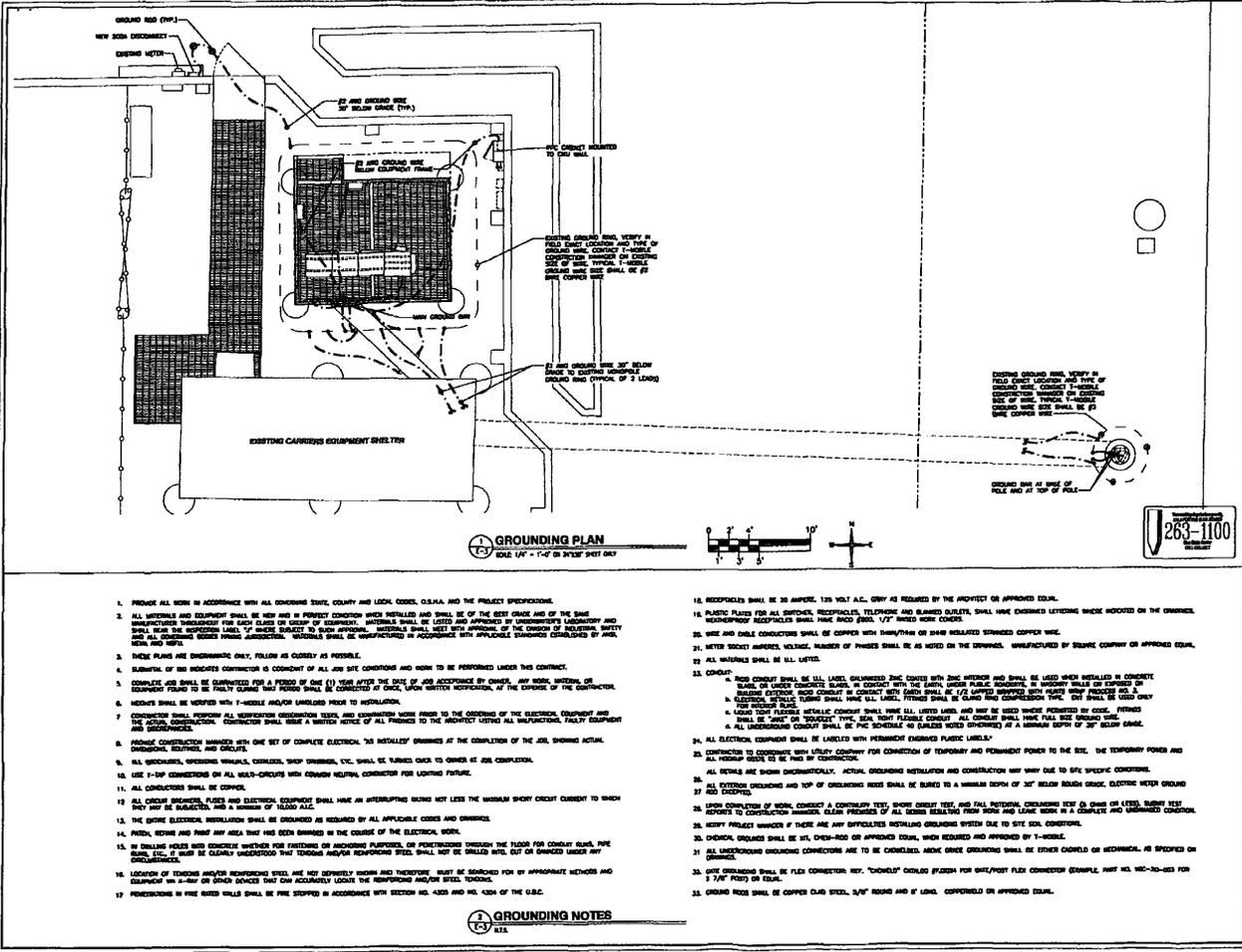
SHEET TITLE

**POWER/TELCO
 ROUTING**

SHEET NUMBER

E-1

APPROVAL BLOCK



GROUNDING PLAN
SCALE 1/4" = 1'-0" OR 3/16" SHEET ONLY



1. PROVIDE ALL WORK IN ACCORDANCE WITH ALL GOVERNING STATE, COUNTY AND LOCAL CODES, O.S.M.A. AND THE PROJECT SPECIFICATIONS.
2. ALL MATERIALS AND EQUIPMENT SHALL BE NEW AND IN PERFECT CONDITION WHEN INSTALLED AND SHALL BE OF THE BEST GRADE AND OF THE SAME MANUFACTURE THEREAFTER FOR EACH CLASS OR GROUP OF EQUIPMENT. MATERIALS SHALL BE LISTED AND APPROVED BY UNDERWRITERS LABORATORY AND SHALL BEAR THE INSPECTION LABEL "UL" WHERE SUBJECT TO SUCH APPROVAL. MATERIALS SHALL MEET WITH APPROVAL OF THE DESIGN OF REGULATORY AGENCIES AND ALL CONTRACTS SHALL BE FROM JURISDICTIONS. MATERIALS SHALL BE MANUFACTURED IN ACCORDANCE WITH APPLICABLE STANDARDS ESTABLISHED BY A.S.A. AND N.E.C.
3. THESE PLANS ARE INSTRUMENTS ONLY, FOLLOW AS CLOSELY AS POSSIBLE.
4. SURVEY OF THE PROJECTS CONTRACTOR IS COORDINATE OF ALL JOB SITE CONDITIONS AND WORK TO BE PERFORMED UNDER THIS CONTRACT.
5. COMPLETE JOB SHALL BE GUARANTEED FOR A PERIOD OF ONE (1) YEAR AFTER THE DATE OF JOB ACCEPTANCE BY OWNER. ANY WORK, MATERIAL, OR EQUIPMENT FOUND TO BE DEFECTIVE SHALL BE CORRECTED AT ONCE UPON WRITTEN NOTIFICATION, AT THE EXPENSE OF THE CONTRACTOR.
6. WORKS SHALL BE NOTIFIED WITH 7-DAY NOTICE PRIOR TO INSTALLATION.
7. CONTRACTOR SHALL PROVIDE ALL NECESSARY PROTECTION, GUARDING AND SIGNAGE PRIOR TO THE COMMENCEMENT OF THE ELECTRICAL EQUIPMENT AND THE ACTUAL CONSTRUCTION. CONTRACTOR SHALL GIVE A WRITTEN NOTICE OF ALL PROBLEMS TO THE ARCHITECT UPON ALL NECESSARY FACILITY EQUIPMENT AND INSTALLATIONS.
8. ALL WORK SHALL BE COMPLETED WITHIN ONE SET OF COMPLETE ELECTRICAL, TO BE INSTALLED OR INSTALLED AT THE COMPLETION OF THE JOB, SHOWING ACTUAL DIMENSIONS, DISTANCES AND LOCATIONS.
9. ALL WORKS, INCLUDING MATERIALS, METHODS, SHOP DRAWINGS, ETC. SHALL BE REVIEWED AND APPROVED BY THE ARCHITECT AT THE COMPLETION OF THE JOB.
10. USE 1-1/2" COPPER CONNECTIONS ON ALL NEAR-CIRCUITS WITH FURNISH NEUTRAL CONDUCTOR FOR LIGHTING FIXTURES.
11. ALL CONNECTIONS SHALL BE COPPER.
12. ALL CONDUIT, RACEWAYS AND ELECTRICAL EQUIPMENT SHALL HAVE AN INTERRUPTING DEVICE NOT LESS THAN THE MINIMUM SHORT CIRCUIT CURRENT TO WHICH THEY ARE SUBJECT, AND A MINIMUM OF 1000 A.M.P.
13. THE ENTIRE ELECTRICAL INSTALLATION SHALL BE GROUNDED AS REQUIRED BY ALL APPLICABLE CODES AND ORDINANCES.
14. PATCH, REPAIR AND PAINT ANY AREA THAT HAS BEEN DAMAGED IN THE COURSE OF THE ELECTRICAL WORK.
15. IN SHALLOW HOLES AND CONDUITS WHETHER FOR TIGHTENING OR MOVING PLUMBING, OR PENETRATIONS THROUGH THE FLOOR FOR CONDUIT, RACEWAYS, ETC., IT MUST BE CLEARLY UNDERSTOOD THAT THROUGH AND/OR REINFORCING STEEL SHALL NOT BE DRILLED INTO, CUT OR DAMAGED UNDER ANY CIRCUMSTANCES.
16. LOCATION OF TENSILE ANCHORS REINFORCING STEEL ARE NOT NECESSARILY KNOWN AND THEREFORE, MUST BE SEARCHED FOR BY APPROPRIATE METHODS AND EQUIPMENT WITH A-BAY OR OTHER DEVICES THAT CAN ACCURATELY LOCATE THE REINFORCING AND/OR STEEL TENSILE.
17. PENETRATIONS IN FINE MESH WELLS SHALL BE FINE STOPPED IN ACCORDANCE WITH SECTION 90.4.202 AND 90.4.203 OF THE U.S.C.

GROUNDING NOTES

18. RECEPTACLES SHALL BE 30 AMPERE, 125 VOLT A.C., GRY AS REQUIRED BY THE ARCHITECT OR APPROVED EQUAL.
19. PLASTIC PLATES FOR ALL SWITCHES, RECEPTACLES, TELEPHONE AND BLANDED OUTLETS, SHALL HAVE DAMAGED LETTERING WHERE INDICATED ON THE ORIGINAL. RECEPTACLES SHALL HAVE 3/16" DIA. 1/2" HOLE WORK COVERS.
20. WIRE AND CABLE CONDUCTIONS SHALL BE COPPER WITH 3/16" DIA. OR 3/8" DIA. INSULATED STRIPPED COPPER WIRE.
21. WIRE SOCKET AMPERES, VOLTAGE, NUMBER OF PHASES SHALL BE AS NOTED ON THE DRAWINGS. MANUFACTURED BY SQUARE COMPANY OR APPROVED EQUAL.
22. ALL MATERIALS SHALL BE U.L. LISTED.
23. CONDUIT:
 - a. RIGID CONDUIT SHALL BE U.L. LISTED, GALVANIZED STEEL COATED WITH ZINC AND SHALL BE USED WHEN INSTALLED IN CONCRETE SLABS OR UNDER CONCRETE SLABS, IN CONTACT WITH THE EARTH UNDER PUBLIC ROADS, IN ANYWHERE SHALL BE EXPOSED TO WEATHER EXTERIOR. RIGID CONDUIT IN CONTACT WITH EARTH SHALL BE 1/2" LAPPED AND JOINTS SHALL BE MADE WITH COPPER WIRE OR A NON-FLAMMABLE GEL.
 - b. FLEXIBLE CONDUIT SHALL HAVE U.L. LISTED, FITTINGS SHALL BE COPPER AND COMPLY WITH THE U.L. LISTED ONLY FOR RIGID CONDUIT.
 - c. LARGE TIGHT FLEXIBLE CONDUIT SHALL HAVE U.L. LISTED LABEL AND MAY BE USED WHERE PERMITTED BY CODE. FITTINGS SHALL BE "GEL" OR "TIGHT" TYPE, SEA TIGHT FLEXIBLE CONDUIT. ALL CONDUIT SHALL HAVE FULL SIZE DRIVING SIZE.
 - d. ALL UNDERGROUND CONDUIT SHALL BE PVC SCHEDULE 40 (UNLESS NOTED OTHERWISE) AT A MINIMUM DEPTH OF 30" BELOW GRADE.
24. ALL ELECTRICAL EQUIPMENT SHALL BE LABELED WITH PERMANENT EXEMPTED PLASTIC LABELS.
25. CONTRACTOR TO COORDINATE WITH UTILITY COMPANY FOR CONNECTION OF TEMPORARY AND PERMANENT POWER TO THE SITE. THE TEMPORARY POWER AND ALL PERMANENT WELLS TO BE MADE BY CONTRACTOR.
26. ALL DETAILS ARE SHOWN DIMENSIONALLY. ACTUAL GROUNDING INSTALLATION AND CONSTRUCTION MAY VARY DUE TO SITE SPECIFIC CONDITIONS.
27. ALL EXTERIOR GROUNDING AND TOP OF GROUNDING RECES SHALL BE BURIED TO A MINIMUM DEPTH OF 30" BELOW FINISH GRADE. ELECTRIC METER GROUND AND BONDING.
28. UPON COMPLETION OF WORK, CONTRACTOR TO CONDUCT A COMPLETE TEST, AND FULL REPORT, INCLUDING NEW TO OWNER OR ABBEY, BATTERY TEST REPORT TO CONTRACTOR NUMBER, BEFORE PROCEEDING WITH ALL OTHER REMAINING WORK AND SHALL BE IN A COMPLETE AND UNCHANGED CONDITION.
29. NOTIFY PUBLIC AGENCIES IF THERE ARE ANY DIFFICULTIES INSTALLING GROUNDING SYSTEM DUE TO SITE SOIL CONDITIONS.
30. CHEMICAL GROUNDING SHALL BE 3/4" CHEM-ROD OR APPROVED EQUAL, WHEN REQUIRED AND APPROVED BY 1-MOBILE.
31. ALL UNDERGROUND GROUNDING CONNECTIONS ARE TO BE CHECKED, IDENTIFIED AND GROUNDING SHALL BE OTHER GROUNDING AS SPECIFIED ON DRAWINGS.
32. GWT GROUNDING SHALL BE FILED CONDUCTOR KEY, "CORROSION" GROUNDING FRESH FOR GWT/PWY FILE CONDUCTOR (EXAMPLE PART NO. 100-20-100 FOR 3/4" KEY) OR EQUAL.
33. GROUND RECES SHALL BE COPPER CLAD STEEL, 3/16" THICK AND 8" LONG, COPPERFILLED OR APPROVED EQUAL.

T-Mobile
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NO.	DATE	DESCRIPTION	BY
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2	07/11/06	SUBMITTAL	SPC

PROJECT INFORMATION
 02-015-04
PH10633C
APS GREENBRIAR SUBSTATION
 17280 N. 56TH AVENUE
 GLENDALE, ARIZONA 85308

SHEET TITLE
GROUNDING PLAN AND NOTES

SHEET NUMBER
E-3

APPROVAL BLOCK